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TO: DIRECTOR, FBI

FROM: SAC, MEMPHIS (164-76) (P)

GEORGE MALLORY GIFFE, JR. (DECEASED);

MRS. SUSAN LAKICH GIFFE, aka -
VICTIM (DECEASED);
BRENT QUINTON DOWNS, aka -
VICTIM (DECEASED);

_____ - VICTIM
CAA-HIJACKING; KIDNAPING; FTCA
(OO: JACKSONVILLE)

b6
b7C

Re Memphis nitel summary 10/28/71.

Enclosed for the Bureau are one copy of each of
the following documents which were filed at the U. S.
District Court Clerk's Office, Nashville, Tennessee:

1. Petitioners' Memorandum Brief
2. Memorandum of WSM, Incorporated In Support
Of Motion To Intervene
3. Memorandum In Support of Intervention and
Petition For Disclosure Of Public Records
4. Supplemental Memorandum In Opposition To
Motions To Intervene, In Opposition to
Application To Have Transcript Made Part Of
Public Record, And In Opposition To Petition
Pursuant To Rule 27, Federal Rules of Civil
Procedure

- 2 - Bureau (Enc-5)
2 - Jacksonville (164-103) (Enc-5)
2 - Memphis

REC-32

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Approved: _____ Sent _____ M Per _____

Special Agent in Charge

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5. Intervenor's Petition.

Enclosed for Jacksonville are one copy each of the above listed items.

Bureau note that the above memorandum briefs and petitions are the last items requested by U. S. District Judge FRANK GRAY, JR., Middle District of Tennessee, Nashville, to be filed prior to a hearing on this case, regarding the civil actions on 11/1/71, at 1:30 p.m. U. S. District Judge GRAY indicated at a hearing on 10/26/71 which was continued until 11/1/71, that he desired to have an opportunity to review the briefs prior to making any decisions on the next hearing date and continue the hearings. It is noted that the U. S. District Court Clerk's Office remained open after the usual close of business time in order to accept several of the memoranda which were filed late in the evening hours of 10/28/71.

The Bureau will be promptly advised of results of the hearing scheduled for 11/1/71.

IN THE UNITED STATES DISTRICT COURT FOR MIDDLE TENNESSEE

Nashville Division

FILED

OCT 28 1971

MRS. BRENT QUINTON DOWNS and ANDREW)
ARTHUR DOWNS, 622 Paces Ferry Road,
Nashville, Tennessee,

SUSAN GERMAINE GIFFE and MAJOR AND)
MRS. JOSEPH S. LAKICH, 4122 Moss
Rose Drive, Nashville, Tennessee,

BIG BROTHER AIRCRAFT, INC., and)
M. P. BROTHERS, JR., Nashville
Metropolitan Airport, Nashville,
Tennessee,

Petitioners,

v.

UNITED STATES OF AMERICA,

Respondent.)

BRANDON LEWIS, Clerk

BY _____ D.C.

CIVIL ACTION NO. 6348

PETITIONERS' MEMORANDUM BRIEF

Table of Contents

- I. Introduction
- II. Is Claim a "Cognizable Action" in Middle District of Tennessee
 - 1. Venue
 - 2. Nature of Tort Liability Under Federal Tort Claims Act
 - A. Assault and Battery
 - B. Trespass to Chattel
 - C. The Discretionary Function Exception
- III. Disclosure of Tape Recordings
- IV. Miscellaneous Objections by Government

I. Introduction

The ultimate question in the case is whether the wife and child of Brent Downs, the child of Susan Giffe and the aircraft owner should bear the full burden of their losses without compensation or whether some part of their losses should be distributed to society in the form of compensation to the injured persons. Translating this question into legal language:

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ENCLOSURE

Were agents and employees of the United States guilty of negligent, reckless or other tortious conduct in disregard of life and property when they enticed the pilot to land the hijacked airplane at Jacksonville by promising to follow his instructions and then refused to refuel or stay clear of the plane as instructed and fired upon the plane thereby causing the deaths of Brent Downs and Susan Giffe and damage to the plane; and if they were guilty of tortious conduct, has the United States waived its immunity from such liability under the Federal Tort Claims Act?

Federal rule of Civil Procedure 27 requires that petitioner show that they expect to be parties "to an action cognizable in" federal court. We agree with the government that this means that petitioners must be able to present a claim which this Court has the power to hear and determine on the merits. On the basis of the facts asserted herein, as well as in our petition and administrative claim including the transcriptions of the tape recordings attached thereto, our position is that we have stated a claim showing that United States employees and agents were guilty of tortious conduct and that their conduct is not subject to any exception to liability under the Federal Tort Claims Act.

The expected action in this case must meet the requirements for stating a claim cognizable under that act, and the purpose of this pre-action petition is to secure and perpetuate evidence respecting the tortious acts. Our investigations so far disclose no facts bringing the case within an exception to liability under the act, and we suggest that government counsel should assert at this time any facts in its possession that would demonstrate that the conduct of United States employees and agents falls within an exception to the liability created under the act.

II. Is the Claim "Cognizable Action" in
the Middle District of Tennessee

1. Venue.--There is no problem with laying venue in this court under the applicable venue statute, 28 U.S.C. § 1402(b) which says:

Any civil action on a tort claim against the United States under subsection (b) of section 1356 of this title [vesting jurisdiction of Federal Tort Claims Act cases in federal district courts] may be prosecuted only in the judicial district where the plaintiff resides or wherein the act or omission complained of occurred. (Emphasis added.)

Mosseller v. United States, 158 F.2d 380 (2d Cir. 1946), demonstrates that this court has jurisdiction and venue not only of the expected action but also of the Rule 27 motion in this case. In Mosseller (an action to secure and perpetuate testimony under Rule 27 for use in an action under the Suits in Admiralty Act, requiring the filing of an administrative claim and providing a statutory delay for filing suit) the petition to perpetuate evidence was filed against the United States in the Southern District of New York, the district which would have jurisdiction of the personal injury case under the Suits in Admiralty Act. The court held that the petition for securing evidence was maintainable in that district. In the case at bar the Middle District of Tennessee has jurisdiction and venue of the Federal Tort Claims Act case because all plaintiffs reside within this district, and the defendant is subject to service of process here. Therefore, this court has jurisdiction and venue to hear this petition to secure evidence.

2. Nature of Tort Liability Under Federal Tort Claims Act.--The United States has partially waived its traditional immunity from tort liability by sections 2674 and 2680 of the act, and petitioners' rights of recovery are governed basically by the court's interpretation of these two sections aided by the case law developed under them. Section 2674 says that the

government shall be liable in tort "in the same manner and to the same extent as a private individual under like circumstances."

The government in its memorandum asserts it is still immune from tort liability in this case because of two exceptions provided in section 2680 as follows:

The provisions of this chapter and section 1346(b) of this title shall not apply to--

(a) any claim . . . based upon the exercise or performance or the failure to exercise or perform a discretionary function or duty on the part of a federal agency or an employee of the government, whether or not the discretion involved be abused.

(h) any claim arising out of assault, battery, false imprisonment, false arrest, malicious prosecution, abuse of process, libel, slander, misrepresentation, deceit or interference with contract rights.

We will discuss the government's position with respect to assault and battery first because this order of discussion will be helpful in defining or characterizing the nature of our claim at common law, keeping in mind that the act defines and characterizes the government's liability in part in terms of well-known common law concepts and in part in terms of concepts unknown to the common law.

A. Assault and Battery.--The facts alleged in this case do not make out a case of assault and battery, and petitioners are making no claim against the government for an intentional tort of this kind. Prosser describes the common law distinction between negligence and intent:

In negligence the actor does not desire to bring about the consequences which follow, nor does he know that they are substantially certain to occur or believe that they will. There is merely a risk of such consequences, sufficiently great to lead a reasonable man in his position to anticipate them, and to guard against them. . . . As the probability of injury to another, apparent from the facts

within his knowledge, becomes greater, his conduct takes more of the attributes of intent, until it reaches that substantial certainty of harm . . . inseparable from intent itself.

Prosser, Torts 145 (4th ed. 1971).

Prosser summarizes the elements of the common law tort of battery as follows:

(i) There must be an "unpermitted contact with plaintiff's person"; the interest is in protecting "the integrity of his person" not a chattel he owns. (ii) "The act must cause, and must be intended to cause, an unpermitted contact. Mere negligence, or even recklessness, which creates only a risk that the contact will result, may afford a distinct cause of action in itself, but under modern usage of the term it is not enough for battery."

Prosser at 34-35.

The federal cases under the Tort Claims Act make this same distinction, a distinction applicable to the case at bar. For example, in Panella v. United States, 212 F.2d 622 (2d Cir. 1954), Judge (now Mr. Justice) Harlan, while on the Second Circuit bench, said that a claim by an inmate of a federal narcotics institution in Lexington, Kentucky, for failing to provide adequate guards and otherwise properly supervising those confined in the institution, thereby permitting another inmate to enjoin the plaintiff by committing an assault and battery, may be remedied under the Tort Claims Act by an action for damages. Judge Harlan went on to say that the exception under the Tort Claims Act for actions of assault and battery is not applicable because here the battery was by a third person as a result of the negligence of the internal security personnel at the Lexington hospital. This position was reaffirmed in Muniz v. United States, 305 F.2d 285 (2d Cir. 1962), aff'd 374 U.S. 150 (1963). The court held that an action for injuries by a federal prisoner against the United States under the Tort Claims Act for alleged negligence in handling prisoners did not fall within the exception barring

claims arising out of assault and battery since this exception applies only to assaults by government agents, and not to assaults by third parties which the government negligently failed to prevent. In affirming the lower court decision holding the government liable, a unanimous Supreme Court, speaking through Chief Justice Warren, said:

First, the government's liability is no longer restricted to circumstances in which government bodies have traditionally been responsible for misconduct of their employees. The Act extends to novel and unprecedented forms of liability as well. *Indian Towing Co. v. United States*, 350 U.S. 61; *Rayonier, Inc. v. United States*, 352 U.S. 315.

..... The Federal Tort Claims Act provides much needed relief to those suffering injury from the negligence of government employees. We should not, at the same time that state courts are striving to litigate the hardships caused by sovereign immunity, narrow the remedies provided by Congress. As we said in *Rayonier, Inc., v. United States*, 352 U.S. at 320, 'There is no justification for this Court to read exemptions into the Act beyond those provided by Congress. If the Act is to be altered that is a function for the same body that adopted it.'

374 U.S. 159, 163-166.

Chief Justice Warren then went on to hold that the conduct of prison officials in negligently failing to guard against injury to inmates is not an exception under subsection (h) excluding actions for assault and battery or under subsection (a) excluding claims based on the performance of a discretionary function. See also *Underwood v. United States*, 356 F.2d 92 (5th Cir. 1966).

Petitioners do not claim that United States employees intended to injure Downs and Susan Giffe by their actions, and even though the government has stated in its memorandum in opposition that the case falls into the assault and battery exception, we do not believe the government really intends to try to escape liability by claiming that the agents intended to commit a battery which, if true, would constitute murder in the criminal context. If it is the government's real intention to make such a claim, it should come forward with facts demonstrating

the intentional character of the harm caused by their agents.

The Faneca case cited in the government's memorandum in opposition, 332 F.2d 872 (5th Cir. 1965) is easily distinguishable. There federal marshalls fired tear gas at the plaintiff, a member of a mob engaged in an effort to block James Meredith's entry into the University of Mississippi. Plaintiff was directly injured by the shot fired by the federal official and the court therefore held the assault and battery exception to be applicable.

B. Trespass to Chattel.--Petitioners do, however, intend to charge the government with one intentional tort in connection with the damage to the aircraft. In addition to charging the government with negligent and reckless interference with the airplane by failing to protect it from damage, petitioners intend also to charge that the government agents permitted the intentional tort of trespass to personal property, the elements of which Prosser describes in detail in his treatise at page 76. While subsection (h) of section 2680 quoted above excepts certain intentional torts, it does not exclude trespass, a tort claim therefore covered by section 2674 for which petitioner Big Brother Aircraft, Inc., intends to sue under the act. The courts have made it clear that an action for trespass to chattel or land will lie under the act. Hatahley v. United States, 351 U.S. 173 (1956); Bushey & Sons, Inc. v. United States, 276 F. Supp. 518 (D.C.N.Y. 1967), aff'd 398 F.2d 167 (2d Cir. 1968).

C. The Discretionary Function Exception.--The statutory description of this exception is intentionally vague so as to give federal courts the power to protect the government from liability for policy type decisions; and, as one might expect in connection with a standard so vaguely worded, there has been substantial litigation concerning the exception. On a case by case basis over the past 25 years, however, the courts have

given meaning to its language that makes sense. The courts have recognized that it is obvious that most claims for damages caused by negligent acts are based upon the abuse of discretion, either in the exercise or failure to exercise discretion. The mail truck driver hurrying to get a load of mail on a departing train exercises discretion in deciding whether to make a left turn before oncoming traffic or to wait until that traffic has passed. The courts have recognized that it is just as obvious that such discretionary determinations must not be excluded if the act is to have any effect. Courts have therefore interpreted the exception as immunizing the government from liability for the enactment of a statute or the decision of an administrative official issuing a regulation, establishing a policy or formulating plans of general application. Prosser describes the standards developed by the courts in interpreting this exception as follows:

In the outstanding case of *Dalehite v. United States*,³¹ this was held to mean that negligent decisions of government officials in adopting a plan for the export of fertilizer, in controlling its manufacture, in handling and shipment of the product, and in failing to police the shipboard loading, all of which were made at the "planning or policy" level, afforded no basis for liability of the United States. There has been general agreement that high level policy judgments, as for example, as to a change in the course of the Missouri River,³² measures to protect migratory fowl,³³ to conduct tests of nuclear explosions,³⁴ or the decision not

31. 1953, 346 U.S. 15. See Heuser, *Dalehite v. United States: A New Approach to the Federal Tort Claims Act*, 1954, 7 Vand. L. Rev. 174; Notes, 1953, 66 Harv. L. Rev. 488; 1953, 45 Ill. L. Rev. 791; 1951, 27 Ind. L.J. 121; 1951, 52 Mich. L. Rev. 733.

32. *Coates v. United States*, 8 Cir. 1950, 181 F.2d 816.

33. *Sickman v. United States*, 7 Cir. 1950, 184 F.2d 616, cert. denied 341, U.S. 939, rehearing denied 342 U.S. 843.

34. *Bartholomae Corp. v. United States*, S.D. Cal. 1955, 135 F. Supp. 651; *Bulloch v. United States*, D. Utah 1955, 133 F. Supp. 885.

to operate a seized coal mine,³⁵ cannot result in liability; and this is true even though the planning level involves the drafting of specifications, schedules and procedures.³⁶

Where the decision occurs at the "operational" level of government activity, which is to say, when it is made by one who is actually engaged in carrying out the work in the field, there have been cases³⁷ which have declared that there is no less involved in the way of opinion, judgment and "discretion," and there can be no liability. There have been as many cases, however, which have held that such "operational" exercises of discretion are not those contemplated by the Act;³⁸ and this seems definitely indicated as the position of the Supreme Court.³⁹ Thus, while the decision of the Civil Aeronautics Authority to establish an instrument approach pattern for an airport is "planning," the failure of the pilots to take precautions against frightening horses in landing is "operational;" and while the United

35. Old King Coal Co. v. United States, S.D. Iowa 1949, 88 F. Supp. 124.

36. Dalehite v. United States, 1953 (making and shipping fertilizer); United States v. Ure, 9 Cir. 1955, 225 F.2d 709 (decision not to line canal with concrete); Thomas v. United States W.D. Mo. 1949, 81 F. Supp. 881 (angles of dikes in flood control project); Sisley v. United States, D. Alaska 1962, 202 F. Supp. 273 (design of road crossings and culvert grades for national highway).

37. Denny v. United States, 5 Cir. 1948, 171 F.2d 365 (refusal to extend medical care to wife of serviceman); Fahey v. United States, S.D.N.Y. 1957, 152 F. Supp. 535 (district attorney's refusal to prosecute); Olson v. United States, D.N.D. 1950, 93 F. Supp. 150 (opening flood gates); Dugan v. United States, D.D.C. 1956, 147 F. Supp. 674 (hospital ward in which mental patient to be confined); Smart v. United States, 10 Cir. 1953, 207 F.2d 841 (decision to release mental patient).

38. American Exchange Bank v. United States, 7 Cir. 1958, 257 F.2d 938 (decision not to install handrail on stairs); United States v. Union Trust Co., D.C. Cir. 1955, 95 U.S. App. D.C. 189, 221 F.2d 62, affirmed per curiam in Union Trust Co. v. Eastern Air Lines, 350 U.S. 907 (decision of controller of air traffic not to warn aircraft of collision); Friday v. United States, 9 Cir. 1957, 239 F.2d 701 (ordering tired driver to continue on long trip); Fair v. United States, 5 Cir. 1956, 234 F.2d 288 (release of mental patient); White v. United States, 4 Cir. 1963, 317 F.2d 13 (grounds privilege to same).

39. See, in addition to the Dalehite case, supra, note 31, Indian Towing Co. v. United States, 1955, 350 U.S. 61, where failure of those in charge of a lighthouse to check the electrical system was said to be upon the "operational level," and to involve no "discretion" within the meaning of the Act.

States is not liable for the one, it is for the other.⁴⁰

A good case in the Ninth Circuit⁴¹ has summarized some of the distinctions made along those lines, as follows:

"Discretionary to undertake fire-fighting, lighthouse, rescue, or wrecked-ship marking services, but not discretionary to conduct such operations negligently; discretionary to admit a patient to an Army hospital, but not discretionary to treat the patient in a negligent manner; discretionary to establish a post office at a particular location, but not to negligently fail to establish handrails; discretionary to establish control towers at airports and to undertake air traffic separation, but not to conduct the same negligently; discretionary to reactivate an airbase, but not to construct a drainage and disposal system thereon in a negligent fashion; and discretionary for CAA to conduct a survey in low flying, twin-engine airplane, but not for pilots thereof to fly negligently."⁴²

40. *Dahlstrom v. United States*, 8 Cir. 1956, 228 F.2d 819.

41. *United Air Lines, Inc. v. Wiener*, 9 Cir. 1964, 335 F.2d 379, 393, cert. dismissed 379 U.S. 951.

42. Citing cases in footnotes, which are here omitted.

That federal employees controlling aircraft at airports under circumstances where the safety of the aircraft and its passengers is dependent upon such employees, are not in the exercise or performance of a discretionary function or duty so as to exempt the United States from liability under the provisions of 28 U.S.C. § 2680, seems to be beyond peradventure of a doubt. In *Eastern Airlines v. Union Trust Co.*, 221 F.2d 62 (D.C. Cir. 1955) aff'd per curiam, 350 U.S. 907, suit was brought under the act against the airlines company and against the United States to recover for the death of passengers on the plane arising out of a collision between the passenger plane and another plane while both were attempting to land at a controlled public airport owned by the United States. The accident occurred at Washington National Airport and resulted in damage verdicts against Eastern and the United States of America. The principal question on the government's appeal was

whether the United States had consented to be sued for negligence of its control tower employees in regulating air traffic at a public airport.

The court said, at page 73:

The Government insists that its tower operators perform governmental functions of a regulatory nature; that no private individual has such power of regulation; that therefore the Act does not permit suit based on negligent performance of their duties.

The government contended that since a private individual could not thus regulate, the claims were excluded from the coverage of the Tort Claims Act. The court reviewed the history of the act and the history of establishing control towers at various airports throughout the country, and the evidence showed that in towers which were not directly controlled by CAA employees, the operators in non-government towers must be certified by the CAA before they could control civil aircraft in air commerce. This was pertinent only in relation to the court's answer to the government's first defense by which the court observed that there was no reason that private individuals could not construct and operate an airport with its own operators certificated by the CAA.

The court then turned to the government's contention that the controllers were performing a discretionary function in "that the tower operators' duties are public in nature and involve the exercise of discretion and judgment, with the result that neither the operators nor the United States can be held liable for their negligent performance." The court said, at page 75:

We hold that the tower operators merely handle operational details which are outside the area of the discretionary function and duties referred to in § 2680(c); and that, consequently, the Tort Claims Act permitted the government to be sued for damage sustained because of their negligence.

The court cited as authority Costley v. United States, 181 F.2d 723 (5th Cir. 1950) (involving negligent injuries to a Master Sergeant's wife who was admitted to the maternity section in the Army hospital); Somerset Seafood Co. v. United States, 193 F.2d 631 (4th Cir. 1951); and United States v. Gray, 199 F.2d 239 (10th Cir. 1952). The court then held that these cases were neither overruled nor impaired by the latest decision of the Supreme Court in Dalehite v. United States, 346 U.S. 15, 73 S. Ct. 956 (1953). After quoting extensively from Dalehite, the court said and held at page 76:

We may fairly infer from the statement just quoted that the United States is liable for the negligence of its employees at the operational level, where there is no 'room for policy judgment and decision.'

The court said further at page 77 (in part commenting upon Dalehite and the liability of the Coast Guard considered therein):

Had the Coast Guard authorities decided to supervise the storage, we have no doubt the United States would have been liable in tort for any causal negligence of its personnel acting at the operational level. So it is here: discretion was exercised when it was decided to operate the tower; but the tower personnel had no discretion to operate it negligently.

The trial court found as its negligence that there was a failure of the control tower to issue a proper warning to the Eastern plane, in clearing both planes for the same runway at the same time, and the failure to keep both planes advised as to the activities of the other. The D.C. court said at page 78:

The three negligent omissions and the one affirmative negligent act found by the court were not 'decisions responsibly made at a planning level' and did not involve any consideration important to the practicality of the government's program of controlling aircraft at public airports. The tower operators acted, and failed to act, at an operational level. While they were in a sense

exercising discretion as to what they should and should not do, they were not performing the sort of discretionary functions contemplated by § 2680(a) and clearly described in the Dalehite decision.

It is therefore our opinion that, if a government towerman negligently clears two planes to land on the same runway at the same time, or is guilty of some other negligent act or omission in doing his work, the government is liable for resulting injury in the same manner and for the same reason that it is liable for injury done by the driver of a mail truck who, in exercising discretion as to how to drive, negligently runs through a red traffic light.

Accord: *Hartz v. United States*, 387 F.2d 870 (5th Cir. 1968); *Ingham v. Eastern Airlines*, 373 F.2d 227 (2d Cir. 1967); *United Airlines, Inc. v. Wiener*, 335 F.2d 379 (9th Cir. 1964); *Furumizo v. United States*, 245 F. Supp. 981 (Hawaii 1964); *Wenninger v. United States*, 234 F. Supp. 499 (Del. 1964); *Wildwood Mink Ranch v. United States*, 218 F. Supp. 67 (Minn. 1963).

Like the FAA personnel cases, the few existing FBI and IRS cases also hold that the operations of government law enforcement agents in performing their duties is not a discretionary function. In *Sullivan v. United States*, 129 F. Supp. 713 (D.C. Ill. 1955), the court held that a special agent of the Federal Bureau of Investigation was not performing a discretionary function in pursuing a person whose arrest had been ordered by the Department of Justice, and the United States is liable for the agent's negligence in the operation of an automobile at an excessive rate of speed in pursuit of and for the purpose of apprehending a fugitive. Similarly, in *Swanner v. United States*, 309 F. Supp. 1183 (D.C. Ala. 1970), an IRS informant was placed in a position of danger as a result of testifying for the government which failed to provide protection for him and his family resulting in injury to members of his family when a bomb exploded under his house. The court held that these injuries were the result of negligence of the government in not providing protection.

Under the cases, therefore, the negligent and reckless

conduct of law enforcement agents at the operational level, subjects the United States to liability in the same way that the negligence of airport tower operators subjects the United States to liability. In the present case, in order to escape liability under the discretionary function exception, the government would have to show that the FBI has a policy or has made a decision of general application at the administrative level to attempt to entice hijacked planes to the ground by promising to follow the pilot's requests and instructions and then to refuse to refuel such hijacked planes and to forestall takeoff despite the pilot's instructions and requests and despite the obvious danger of injury or death to the occupants by following such a course. Our investigation does not disclose any such policy or decision of general application, and therefore we conclude that there is no basis for applying the discretionary function exception.

III. Disclosure of Tape Recordings

The answer to the court's question respecting the public character of radio communications between United States airport tower personnel and occupants of airplanes is given in the Sixth Circuit case of Brown v. Civil Aeronautics Board, 324 F.2d 523 (6th Cir. 1963), in which Judge Peck, speaking for a panel composed of Chief Judge Phillips and Judge Cecil, said:

At the hearing before the Board's examiner, the chief controller of the Detroit Willow Run and Willow Metropolitan Control Towers testified that it was "standard procedure" to record communications between pilots and that the conversation between petitioner and the commercial airline pilot hereinabove referred to was so recorded. Testimony from this source was then received, and petitioner claims that such use is prohibited by Section 605, Title 47, United States Code. That section provides that it shall not apply "to the receiving, divulging, publishing, or utilizing the contents of any radio communication broadcast, or transmitted by amateurs or others for the use of the general public, or relating to ships in distress," and this provision would appear to make the use complained of permissible. However, that determination need not be here made because

the channels used for the conversation at issue were authorized aeronautical frequencies. The assignment of these frequencies is for the purpose of permitting communications between traffic control personnel and pilots, and between pilots, and no element of privacy is involved. Pilot and tower conversations are permissible evidence in proceedings such as the one here involved (Specht v. Civil Aeronautics Board, 254 F.2d 905 (C.A. 8, 1958)) and in civil suits involving aircraft accidents (Universal Airline v. Eastern Air Lines, 88 U.S. App. D.C. 219, 188 F.2d 993 (1951); Eastern Air Lines v. Union Trust Company (United States v. Union Trust Company), 95 U.S. App. D.C. 189, 221 F.2d 62 (1955), affirmed in part, 350 U.S. 907, 76 S. Ct. 193, 100 L. Ed. 799). The procurement and use of information from such a source as here involved does not fall within any prohibitions against "wire tapping."

The opinion in the above case makes it clear that the tape recordings in the instant case are not privileged communications and even if they were, have now been placed in the public domain by radio broadcast. The tapes do not mention the defendant Wallace and in no way affect his innocence or guilt. There is no legitimate interest to be served by keeping the tapes secret.

Petitioners request the court to make the tape transcriptions a part of the official record in this case and therefore to permit petitioners and their attorneys to use the tapes and to publish their contents in the further investigation of the case. Petitioners cannot make proper use of the recordings in their investigation of the case. Petitioners cannot make proper use of the recordings in their investigation if they are not permitted to disclose the contents of the tapes in the taking of depositions and other investigation.

Moreover, members of the news media have repeatedly approached attorneys for petitioners seeking to hear or transcribe the recordings of the tapes which petitioners have made, and petitioners see no legitimate public interest to be served by refusing to give the news media access to communications which are already in the public domain.

The fact that the government says it has not had an

opportunity to compare the transcript submitted by petitioners with the actual tape is no reason for objecting to the tapes being made an official part of the record. If the government wishes to demonstrate that the tapes as transcribed by petitioners are wrong in any way, it can simply file what it considers to be a correct transcript.

Moreover, there could be no conceivable breach of any free press-fair trial standard in connection with Wallace's case and Wallace's attorney, James F. Neal, Esquire, has suggested no possible prejudice to his client, nor has he objected to the release of the tapes.

The government's allegation in its memorandum in opposition that the only purpose for the petitioners' efforts to have the transcripts of the tapes made a part of the official record and therefore placed in the public domain is to circumvent an agreement between government counsel and petitioners' counsel is untrue. The agreement that the government is apparently referring to was an agreement not to use the tapes in any way which would prejudice Wallace's rights to a fair trial or to disclose the tapes if their public disclosure would be likely to affect the outcome of the Wallace trial. Government counsel and petitioners' counsel are in disagreement about whether the tapes affect Wallace's trial.

In summary, petitioners do not want to be hamstrung in their use of the tapes by the government's apparent desire to classify them as secret so as to cover up its own mistakes. It is understandable that government officials acting in their own self interest in an effort to avoid embarrassment would try to cover up their mistakes, but there is no legitimate interest to be served by permitting them to do so.

IV. Miscellaneous Objections by Government

1. Discovery.--The government opposes our petition

on grounds that Rule 27 cannot be used for discovery. It is obvious, however, that litigants can obtain discovery if they otherwise meet the requirements of the rule. In this case the government employs or controls most of the fact witnesses in this case, but it has refused to permit any interviews or depositions of any of its people, has refused to give any information about the reasons for its employees' action and refused to permit Florida officials even to turn over autopsy reports or other information.

We cannot file suit because of the statutory delay in the Tort Claims Act, and therefore we are unable to secure and perpetuate testimony under normal rules. Our only alternative is to ask the court to order the government to turn over information and permit depositions. Unless the court requires this of the government, we will be totally dependent for protection of our interests on the FBI, an adversary party which may be trying to cover up a mistake. We need to secure the evidence requested in order to validate the tape recordings, the names of the voices thereon and the events described thereon while the facts are still fresh in the memory of the participants. These circumstances meet the requirement of the rule for perpetuation.

FBI agents are just as capable of concealing, losing, suppressing, forgetting and misrepresenting evidence as any other litigants or human beings and should not be treated differently from any other litigant or witness. FBI agents are just as capable of dying or being unavailable as anyone else, perhaps more so. In six months, witnesses can forget or die, decide to lose or suppress evidence, falsify, misplace reports and other evidence and get up untrue stories to explain their actions. We do not accuse FBI agents of such conduct, but we do say that agents are no less likely to protect their own self-interests than anyone else. Under such circumstances courts have permitted the securing and perpetuation of a wide range of evidence. See, e.g., Martin v. Reynolds Metals Corp.,

In response to the government's objection that the petition fails to state the substance of the evidence desired, we say the petition states with precision the evidence to be secured, and the petition, the administrative claim, the transcription of the tape recording and this brief show that such evidence is competent and material to the issues to be determined in the expected tort action. The only requirement is that the evidence be competent and material. See 4 Moore's Federal Practice § 27.06, 27.11 (1971).

In response to the government's objection that administrative regulations prohibit the disclosure of the evidence requested, we say that the regulation is not applicable and would be clearly invalid if applied to the court's order in this case. These rules only regulate the internal operations inside the Department of Justice and the FAA and have never been interpreted to limit a federal court's jurisdiction in an action wherein the government is a party. It is absurd to suggest that a federal department head by issuing an administrative regulation can change a federal court's inherent judicial powers over parties to litigation or override the Federal Rules of Civil Procedure adopted by the Supreme Court and approved by Congress except under congressional authority respecting documents the disclosure of which would damage national security. The government has neither asserted nor laid any foundation for asserting that these documents are official government secrets not discoverable for reasons of national defense. No court has ever so held and there is no authority for such a principle except in cases involving the disclosure of military secrets or information classified as an official government secret. See *Cresmer v. United States*, 9 F.2d 203 (E.D.N.Y. 1949); *Wunderly v. United States*, 8 F.R.D. 356 (E.D. Pa. 1948); *McCormick*, Evidence 302-09 (1954); *Sanford*,

Evidentiary Privileges Against the Production of Data Within
the Control of Executive Departments, 3 Vand. L. Rev. 73 (1949).

Respectfully submitted,

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Certificate of Service

I certify that a copy of this brief was mailed to all
counsel of record in this case on this 28th day of October, 1971.

Gilbert S. Merritt
Gilbert S. Merritt

THE UNITED STATES DISTRICT COURT FOR THE
MIDDLE DISTRICT OF TENNESSEE
NASHVILLE DIVISION

FILED

OCT 28 1971

BIG BROTHER AIRCRAFT, INC., et al.

Plaintiffs

WLAC-TV, INC.
WSM, INCORPORATED

Intervening Petitioners

vs.

JOHN VOLPE, et al.,

Defendants

BRANDON LEWIS, Clerk

BY _____ D.C.

CIVIL NO. 6322

MRS. BRENT QUINTON DOWNS, et al.

Petitioners,

vs.

UNITED STATES OF AMERICA,

Respondents

CIVIL NO. 6348

MEMORANDUM OF WSM, INCORPORATED
IN SUPPORT OF MOTION TO INTERVENE

I

Rule 24(a) and Rule 24(b) are to be liberally construed, in order to avoid a multiplicity of suits, and the motion to intervene should be granted where possible. Brotherhood of Locomotive Engineers vs. Chi., M., St. P., and P.R. Co., 34 F. Supp. 594. Nuesse vs. Camp (C.A.D.C. 1967) 385 F.2d 385.

II

Should the motion be granted, the original petition, with intervening petitions, should be set for hearing at an early date. Intervenor WSM, Incorporated submits that Rule 12(a), Federal Rules of Civil Procedure does not apply, in that the language of 5 USCA 522(a)(3) clearly contemplates action thereunder calling for extraordinary process under expedited procedures. Although not necessarily the primary issue, this has been recognized in a number of cases, including Bristol-Myers vs. FTC (C.A.D.C. 1970), 424 F.2d 935.

III

With respect to the merits of the intervening petition, it should initially be pointed out that the language of the Freedom of Information Act, 5 USCA 522 (a)(3), strongly emphasizes that except for certain named exemptions each agency "shall make the records promptly available to any person." And under many cases cited in this memorandum and elsewhere it has been held that the statute shall be liberally construed so as to make the public's business truly the public's business.

At a preliminary hearing on this matter the Court inquired of the parties as to the effect of the fact that the actual conversations now reduced to tape recordings had been transmitted over a public radio frequency, and thus may already have been published.

Regardless of any publication in this sense, the voice tapes which constitute the records sought in this case have not been reproduced and made physically available to the public, so far as this intervenor is able to determine. In that sense they thus have not been made public, are still in the hands of the defendants in this proceeding, and hence are squarely covered by the terms of section (a)(3) of the Act. The fact that the content of the agency records in tape recording form may have been "published" by being spoken over a limited public radio frequency, or published in part by the newspapers, would seem to have no significance to this proceeding beyond emphasizing that no public harm will result from their release. The only exceptions to section (a)(3) of the Act are records published under paragraphs (1) and (2) thereof, which have no application here, and those records exempt under section (b).

Secondly the Court asked for comment as to the necessity of release of the tapes. This intervenor's first response to that inquiry is simply to refer to language of the statute above quoted, wherein the Congress has declared and established such a public interest and necessity. This question has, however, been the subject of discussion in several reported cases.

"In an action under the Freedom of Information Act, which shifts the burden of proof to the defendant, the balance of equities is presumptively on the side of disclosure." Consumers Union of U.S., Inc. vs. Veterans Administration (D.C. S.D. N.Y. 1969) 301 F. Supp. 796, 806. "The rule to be followed is this: where agency records are not exempted from disclosure by the Freedom of Information Act, a court must order their disclosure unless the agency proves that disclosure will result in significantly greater harm than good." Id.

We have here a situation in which intervenor television station, engaged in electronic journalism, has vainly requested an electronic record prepared by a government agency, for use in carrying out its public interest responsibilities imposed upon it by yet another government agency, where at least portions of the content of the record have already been published by the printed media. Certainly it cannot be said that the release of the electronic information asked "will result in significantly greater harm than good."

While intervenor is fully satisfied of its equitable position under the authorities just above cited, it would respectfully submit to the Court that it is entitled to the

records as a matter of law under the statute, unless such records fall within the statutory exemption. As was stated by the court in Epstein vs. Resor, (9th Cir. 1970) 421 F. 2d 930, 933, "Rather it would seem to be that [5 USCA 522] (b) was intended to specify the bases for withholding under (a)(3) and that judicial review de novo with the burden of proof on the agency should be had as to whether the conditions of exemption in truth exist."

Defendants contend that the records sought are exempt under the terms of section (b)(7), as "investigatory files".

Intervenor submits that the requested records do not fall within the "investigatory file" exemption to the Public Information Act, in that previous proceedings in this Court indicate the tapes sought are of a routine nature kept and maintained at many airports under FAA jurisdiction. That such records may ultimately be used in some law enforcement proceeding does not bring them within the exemption. Bristol-Myers Co. vs. FTC., supra. Any administrative attempts to broaden the scope of the exemption would, of course, be invalid, and the burden of proof of the existence of the exemption is on the defendant. 5 USCA 522 (a)(3).

In any event, where all the information contained in the records requested is already in the hands of the parties who would be affected by pending and proposed litigation, as here, then the investigatory files exemption of the Act does not apply. Wellford vs. Hardin (D.C. Md. 1970), 315 F. Supp. 175, 178. As the court there stated, "Disclosure of material already in the hands of potential parties to law enforcement proceedings can in no way be said to interfere with the agency's legitimate law enforcement functions."

Respectfully submitted

James R. Tuck
Attorney for Intervenor
WSM, Incorporated.

CERTIFICATE OF SERVICE

The undersigned hereby certifies that a true and exact copy of this pleading has been served upon counsel of record for all parties at interest in this cause by placing same in the United States mail addressed to said counsel at his office.

This the 28th day of October, 1971.

James R. Tush

IN THE UNITED STATES DISTRICT COURT

FOR THE MIDDLE DISTRICT OF TENNESSEE

FILED

NASHVILLE DIVISION

OCT 28 1971

BIG BROTHERS AIRCRAFT, INC.,
et al,
WLAC-TV, Intervener, and
WSM, INCORPORATED, Intervener

BRANDON LEWIS, Clerk

BY _____ D.C.

VS:

CIVIL NO. 6322

JOHN VOLPE, et al

MEMORANDUM IN SUPPORT OF INTERVENTION AND
PETITION FOR DISCLOSURE OF PUBLIC RECORDS

WLAC-TV supports its motion and petition on the following grounds:

1. Disposition of the main action may, as a practical matter, impair or impede the Intervener's ability to protect its interests in the property which is the subject of the action.

The Federal Rules of Civil Procedure, Rule 24(a)(2) allows intervention "when the applicant claims an interest relating to the property or transaction which is the subject of the action and he is so situated that the disposition of the action may, as a practical matter, impair or impede his ability to protect that interest, unless the applicant's interest is adequately represented by existing parties".

The main action concerns the disposition to be made of certain tape recordings in which the Intervener claims a right under Title 5, Section 522, U.S.C., which gives the Intervener a right to make copies of these tape recordings as public records.

If the Court in the main action should order that the tape recordings be made a part of the Court file, then the agencies upon which the Intervener should make demand for disclosure could resist by claiming that the tape recordings are no longer in their possession. The same tape recordings are being sought both by the original

plaintiffs and by the Intervener. The defendants are the same. Since the action of this Court on original plaintiffs' motion shall determine the whereabouts of the tapes, Intervener's rights are, therefore, directly affected by the action of this Court and can be protected only by an order allowing intervention.

2. Intervener's interest is not adequately represented by existing parties.

The interest of the original plaintiffs is to preserve these tapes for possible use in a subsequent lawsuit under the Federal Tort Claims Act and to prevent loss or destruction of the tapes pending the time such action is brought. The interest of the Intervener is the production and copying of these tapes pursuant to the Federal statute which gives the Intervener the right to these tapes for public disclosure through the news media.

It is, therefore, clear that while both original plaintiffs and the Intervener are interested in the same property, the interest of the original plaintiffs is in preservation and the interest of Intervener is in copying making public disclosure. The original plaintiffs are not and cannot protect the interest of the Intervener.

3. Intervention should be allowed on the grounds of judicial economy.

Since this Court has had under consideration matters pertaining to the disposition of these tape recordings, it is in the interest of judicial economy that the Intervener proceed in this Court for their production and copying. Certain questions of law and fact are in common in both the original action and in the Intervener's action; namely, which Federal agency has custody and control of the tape recordings, whether discovery of these tapes by a litigant is possible, and whether these

tapes are protected by certain immunities and exemptions.

Rule 24(b) (2) allows permissive intervention "when an applicant's claim or defense and the main action have a question of law or fact in common".

Since the property and the questions of law are so interrelated, judicial waste would be created if the Intervener were compelled to proceed in a separate action in another court.

4. If WLAC-TV is not allowed to intervene, it requests that its petition be treated as an original complaint and heard concurrently with the motion of original plaintiffs.

The Federal Rules of Civil Procedure, particularly Rule 8(f), gives the Court broad discretion to treat pleadings so as to do substantial justice. Rule 8(c) indicates that the Court may change the designation of a pleading and may treat a pleading as if there had been a proper designation.

If the Court finds that this is not a proper case for intervention, WLAC-TV requests that the court treat its petition as an original complaint and that the Court proceed to set a hearing on that basis.

5. WLAC-TV proceeded to make "proper requests" until it became evident that the defendants were refusing to disclose the tape recordings under any circumstances.

Chris Clark, News Director for WLAC-TV, will testify that he had telephone conversations with the officers of the FAA and the FBI who are designated by the Code of Federal Regulations as being responsible for disclosure of public records. Certain of these officers at one time told Chris Clark that the tape recordings might be made available to him. Subsequently these officers made it clear to him that these tape recordings would not be made available and denied that the tape recordings were in the possession or control of the particular agencies.

Following these telephone conversations, Chris Clark, on behalf of WLAC-TV, sent written requests for the tape recordings in accordance with the specified rules and regulations. These requests have not been answered.

A court of equity will not require a party to do a useless act. It is abundantly clear that all attempts to proceed through regular channels are fruitless, and that the agencies involved have no intention of allowing WLAC-TV to copy the tape recordings. Since WLAC-TV is seeking speedy acquisition of the tapes for broadcast, it proceeded immediately into this Court to seek an order for the early production of the tapes.

6. The Freedom of Information Act confers on all citizens a right to compel disclosure of Federal records subject to nine (9) specific exceptions enumerated in the Act.

The Freedom of Information Act was enacted in 1967 against a background of Congressional concern over a growing problem of bureaucratic secrecy. The House report on the bill refers to "a blossoming Washington legend that agency and department heads enjoy a sort of personal ownership in news about their units" and states that "the weed of improper secrecy" was "choking out the basic right to know". H.R. No. 1497, 1966 U.S. Code, Cong. and Ad. News, p. 2419. The basic flaw in the then existing legislation was the broad, vague wording of the exemption provision, which permitted suppression of information upon "good cause found" or "in the public interest". The committee report states that:

"If none of the other restrictive phrases of 5 USC 1002 applies to the official government record which an agency wishes to keep confidential, it can be hidden behind the 'good cause found' shield. Historically, government agencies whose mistakes cannot bear public scrutiny have found 'good cause' for secrecy."

1966 U.S. Code, Cong. and Ad. News, p. 2423.

The purpose of the Freedom of Information Act, and the manner in which it deals with the above defect, is described in the committee report as follows:

"S. 1160 would revise [the Administrative Procedure Act] to provide a true federal public records statute by requiring the availability, to any member of the public, of all of the executive branch records described in its requirements, except those involving matters which are within nine (9) stated exemptions. It makes the following major changes:

1. It eliminates the 'properly and directly concerned' tests of those who shall have access to public records, stating that the great majority of records shall be available to 'any person' . . .
2. It sets up workable standards for the categories of records which may be exempt from public disclosure, replacing the vague phrases 'good cause found', 'in the public interest', and 'internal management' with specific definitions of information which may be withheld".

The Act carries out this legislative intent in the clearest possible terms. It provides that "each agency" on request for "identifiable records made in accordance with published rules stating the time, place, fees to the extent authorized by statute, and procedure to be followed, shall make the records promptly available to any person," and then lists nine (9) categories of records which are not producible under the Act. These exemptions are precisely worded. The intent of the Act to require disclosure of all documents not specifically exempted is underlined in the final subsection, which states:

"This section does not authorize withholdings of information or limit the availability of records to public, except as specifically stated in this section."

5. USC, Section 552(c).

The Committee comment upon this subsection is as follows:

"The purpose of this subsection is to make clear beyond doubt that all the materials of government are to be available to the public unless specifically exempt from disclosure by the provisions of subsection (e) or limitations spelled out in earlier subsections."

1966 U.S. Code, Cong. and Ad. News, p. 2429.

7. The Government cannot withhold a public record simply by labeling a file "investigatory" or by claiming a file is to be used for Government purposes only.

The Freedom of Information Act sought to remedy the consistent abuse of prior law by public officials. The House of Representatives Committee that investigated these abuses stated their findings as follows:

"Thus, even though [the prior law] is titled a 'public information section,' the requirements for publicity are so hedged with restrictions that it has been cited as the basic statutory authority for 24 separate terms in addition to 'top secret', 'secret' and 'confidential' used by executive order only on national defense matters--which federal agencies have devised to stamp on administrative information they want to keep from public view. The 24 restrictive phrases range from the often-used 'official use only' through the simple 'non-public' and more complicated 'individual company data' to the long and confusing 'limitation on availability of equipment files for public reference'."

1966 U.S. Code, Cong and Ad. News, Vol. II, p. 2423.

The Freedom of Information Act gives a federal agency no authority to refuse disclosure of records unless those records clearly fall within the nine (9) enumerated exemptions.

8. The agencies cannot base their refusal to disclose the tapes on the fact that other agencies may also have an interest in them.

The Government relies upon 49 CFR Section 7.45 which purports to allow the FAA to refuse the record if another agency has primary interest in it. It is clear, however, that

under the Freedom of Information Act, Title 5, Section 552, U.S.C., that no agency may base refusal on such a reason.

Section (c) of the Act states specifically, "This section does not authorize withholding of information or limit the availability of records to the public, except as specifically stated in this section". The Act specifies nine (9) exemptions by which a record may be withheld. None of the Nine (9) exemptions allows refusal based upon the interest of another agency.

In any event, even if the FAA argues that it does not have primary interest in the tape recordings, the FBI, which is the only other agency involved, is also before the Court in this matter.

The Federal statute allows a record to be obtained from any agency which has custody of such a record. All agencies that have custody, control, or interest in these tape recordings are now before this Court.

9. The Government cannot deny disclosure simply because the record requested may be involved in a matter pending before a court of law or administrative board.

The Government relies on 49 CFR Section 7.61(a)(2) and Section 7.65, both of which seek to prevent a disclosure of information concerning any matter pending before a court of law and of investigative files. These regulations purport to be included under certain exemptions from records discoverable under the Freedom of Information Act. U.S.C. Title 5, Section 552(b) provides:

"This section does not apply to matters that are--(5) inter-agency or intra-agency memoranda or letters which would not be available by law to a party other than an agency in litigation with the agency; . . . (7) Investigatory files compiled for law enforcement purposes except to the extent available by law to a party other than an agency;"

It is clear from the statutes that in matters pertaining either to inter-agency memoranda or investigative files, the Government may refuse to release only those records which could not be discovered by a litigant under the discovery rules of the Federal Rules of Civil Procedure. These exemptions from disclosure have been discussed in a number of cases, and the result always reached is that if it is possible for any party conceivably to discover the record in any kind of litigation, then that record is subject to public disclosure under the Freedom of Information Act. See Consumer's Union of U.S., Inc. v. Veterans Administration, 301 F. Supp. 796 (1969); Grumman Aircraft Engineering Corporation v. Renegotiation Board, 425 F.2d 578 (D.C. Cir. 1970); Bristol-Myers Company v. F.T.C., 424 F.2d 935 (D.C. Cir. 1970).

In discussing the phrase "extent available by law to a party", one of the more thorough discussions is that of the Southern District of New York in Consumer's Union of U.S., Inc. v. Veterans Administration, 301 F. Supp. 796 (1969):

"The law which sets the limits of discovery of documents in civil actions with Government agencies once a good cause is shown is Rule 26(b) of the Federal Rules of Civil Procedure. The scope of discovery is quite broad,

"Unless otherwise ordered by the Court as provided by Rule 30(b) or (d), the deponent may be examined regarding any matter, not privileged, which is relevant to the subject matter involved in pending action, whether it relates to the claim or defense of the examining party or to the claim or defense of any other party, . . . it is not ground for objection that testimony will be inadmissible at the trial if the testimony sought appears reasonably calculated to lead to the discovery of admissible evidence."

"The discoverability of documents is limited under Rule 26 by the nature of the action. Since the Freedom of Information Act exempts only records 'not available to a party other than an agency', it does not limit the action used to test the exemption to ones in which

the persons seeking the documents is or might be involved. To determine if the requirements of the fifth exemption are met, this Court must ask if the records sought are inter or intra-agency memoranda or letters which would not be available to any party in any litigation in which the agency having the records might now be involved. The fulcrum of this test is discovery practices as regulated by the courts, not discovery as it is practiced by the Government as suggested by the Attorney General's memorandum."

"The distinction between documents that are parts of the administrative reasoning process and factual or investigatory reports is found in other cases as well, and is supported by dictum in another case involving this exemption. The distinction was also used to determine the scope of the seventh exemption which also turns on the availability of the records in a civil action with the Government." American Mail Line, Ltd. v. Gulick, 411 F. 2d 696 (D.C. Cir. 1969); Cooney v. Sun Ship Building and Dry Dock Co., 288 F. Supp. 708 (E.D. Pa. 1968).

"To decide whether the records sought here are within the fifth exemption, this Court must determine whether they were part of the deliberative process of the agency or were factual in substance. The legislative history of the Act supports this conclusion. The language 'which would not be available by law to a party other than an agency in litigation with the agency' was substituted on the recommendation of the Senate Judiciary Committee for 'dealing solely with matters of law or policy'". Senate Report 1-2.

It is at least clear, in light of the strong congressional drive to promote disclosure, that the amendment was not intended to place 'factual material' within the coverage of the fifth exemption." *Id.* at 804.

The legislative history of the Freedom of Information Act makes it crystal clear that unless a record is immune from discovery by a litigant with an agency, it is available to the public under this act.

"Thus, any internal memoranda which would routinely be disclosed to a private party through the discovery process in litigation with the agency would be available to the general public."

U.S. Code, Cong. and Ad. News, Vol. II, (1966), p. 2428.

Other cases under the act have held that the exemption of inter-agency or intra-agency memoranda or letters

from public disclosure was designed to protect only internal working papers in which opinions are expressed and policies formulated and recommended and may not be applied to purely factual data. This exemption does not allow the Government to throw a protective blanket over all information by casting it in the form of internal memoranda. Bristol-Myers Company v. FTC, 424 F.2d 935 (D.C. Cir. 1970).

It is clear that the tape recordings sought by WLAC-TV in the present case are factual data and are not internal working papers of Government agencies. It is also clear that these tape recordings would be discoverable by a party in litigation with the Government, and are, therefore, available to the public. It is submitted that in a case such as that presented by the original plaintiffs under the Federal Tort Claims Act, these records are directly relevant to the claim and are discoverable under the Federal Rules of Civil Procedure. These tape recordings are the best record of the occurrence by which three people lost their lives, and would not be immune to discovery by a party claiming negligence in that occurrence. That being true, they are clearly available to any person as public records under the Freedom of Information Act.

10. The Government cannot deny disclosure on the grounds that the tape recordings are part of an investigatory file.

The statute clearly states that investigatory files are protected from disclosure only to the extent that items in them could not be discovered by a party to a lawsuit. Only the "work product" of the lawyers and investigators are protected. Factual material in an investigative file is not protected if it could not be reached under the discovery rules of the Federal Rules of Civil Procedure.

The tape recordings sought by WLAC-TV are factual data, and are not part of the work product of an investigation.

These tape recordings were made pursuant to a routine FAA directive that all communications between air traffic control centers and aircraft be recorded. This routine procedure is unrelated to any investigation. The Communications that were recorded were sent out over the airways and were available to any party who happened to be tuned in to them. Chris Clark will testify that an FAA official told him that these tape recordings are normally made available to a party upon request. The recordings were made pursuant to a routine Government procedure, and not pursuant to an investigation by a law enforcement agency.

The Government cannot protect these tapes from disclosure simply by putting them into a file labeled "investigative". Bristol-Myers Company v. FTC, 424 F.2d 935 (D.C. Cir. 1970). Therefore, the "investigatory file" exemption does not apply for two reasons: the tapes were not made pursuant to an investigation, and the tapes are discoverable by a litigant under regular discovery rules.

11. The Government cannot require an aggrieved party to have a request "reconsidered" by an agency before filing suit under the Freedom of Information Act.

The Freedom of Information Act intended and provided that records be made "promptly available" to a requesting party. The legislative history of the Act clearly states that the statute was passed because the Government consistently refused to turn over information to the public and press by using prolonged delaying tactics and by labeling files "secret" or "confidential" when they were not entitled to such labels. 1966 U.S. Code, Cong. and Ad. News, Vol. II, p. 2422. The Act provides that after refusal by an agency, any person may go directly to the District Court of the United States in order to have his request adjudicated. In order to encourage the

prompt disclosure of requested information, the Act provides that "complaints under this act take precedence on the docket over all other causes and shall be assigned for hearing and trial at the earliest practicable date and expedited in every way". The House of Representatives Report stated that "the Court review procedure would be expected to serve as an influence against the initial wrongful withholding". Id. at 2426.

It is therefore clear that an agency cannot compel a person who has been refused requested records to reapply to the agency for another hearing, when the statute clearly gives the requesting party the right to go immediately into Federal Court after refusal by the agency.

12. A case brought under the Freedom of Information Act must be heard at the "earliest practicable date and expedited in every way", and the Government cannot require a sixty (60) day delay before filing its answer.

As stated above, the purposes of the Act is to provide "prompt" disclosure of government records. The language of the statute is very clear on this point:

"Except as to causes the Court considers of greater importance, proceedings before the District Court, as authorized by this paragraph, take precedence on the docket over all other causes and shall be assigned for hearing and trial at the earliest practicable date and expedited in every way."

In commenting on this provision of the statute, the House Report states:

"The Court is authorized to expedite actions under subsection (c) 'in every way,' and the Court review procedure would be expected to serve as an influence against the initial wrongful withholding instead of adding substantially to crowded court dockets."

1966 U.S. Code, Cong. and Ad. News, Vol. II, p. 2426.

The phrases "earliest practicable date" and "expedited in every way" precisely indicate that the usual rule for answer and hearing may be suspended, and that the Government may be given only such time to answer as is reasonable.

It is not suggested that an unreasonable burden be placed upon the Government, but only that the Government answer and be ready for hearing at "the earliest practicable date". The statute's directive to expedite the case "in every way" certainly gives the Court authority to require that the Government answer and be ready for trial at the earliest reasonable date.

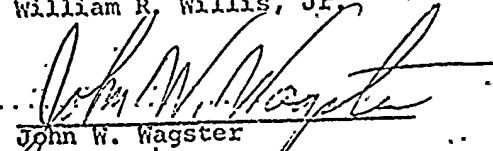
13. WLAC-TV will pay all fees required by the agency for copying these tapes, but it is unable to determine from the regulations what fees are applicable.

Respectfully submitted,

WILLIS, KNIGHT & BARR



William R. Willis, Jr.



John W. Wagster

Attorneys for WLAC-TV

I CERTIFY THAT A COPY THE ABOVE PLEADING
HAS BEEN FURNISHED TO COUNSEL FOR ALL IN-
TERESTED PARTIES BY DELIVERY OR BY PLACING
SAME IN THE UNITED STATES MAIL POSTAGE
PREPAID. THIS 21 DAY OF Oct 1971

WILLIS KNIGHT & BARR

By 

UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF TENNESSEE
NASHVILLE DIVISION

BIG BROTHER AIRCRAFT, INC.,
et al.,

Plaintiffs

WLAC-TV, INC.
WSM, INCORPORATED,

Intervening
Petitioners,

CIVIL NO. 6322

V.

JOHN VOLPE, et al.,

Defendants

MRS. BRENT QUINTON DOWNS,
et al.,

Petitioners,

V.

CIVIL NO. 6348

UNITED STATES OF AMERICA,

Respondents

SUPPLEMENTAL MEMORANDUM IN OPPOSITION TO MOTIONS TO
INTERVENE, IN OPPOSITION TO APPLICATION TO HAVE
TRANSCRIPT MADE PART OF PUBLIC RECORD, AND IN OPPO-
SITION TO PETITION PURSUANT TO RULE 27, FEDERAL
RULES OF CIVIL PROCEDURE

1. This court lacks jurisdiction over the subject matter
of the above-styled actions for the following reasons.

a). In Civil No. 6322, the suit in which the two
television stations seek to intervene, jurisdiction in the
original complaint is premised upon 28 U.S.C. § 1651. However,
this statute, which confers powers upon the courts to issue
"all writs necessary or appropriate in aid of their jurisdictions",
does not confer of itself any jurisdiction on this court.

Stafford v. Superior Court of Cal. In and for Los Angeles County
272 F.2d 407 (9th Cir. 1959), cert. denied 362 U.S. 979. The

statute may be invoked in a district court only as an aid to already existing jurisdiction. United States ex rel. Rollington v. Blackfeet Tribal Court of Blackfeet Indian Reservation, 244 F.Supp. 4704 (D.C. Mont. 1965).

Since the court does not have jurisdiction over the original complaint filed in Civil No. 6322, it certainly should not grant the television stations' motions to intervene, especially since the intervening petitions allege jurisdictional grounds not alleged in the original complaint, and seek relief not sought in the original complaint.

To be sure, the intervenor still must take the main suit as he finds it, . . . in the sense that he cannot change the issues framed between the original parties, and must join subject to the proceedings that have occurred prior to his intervention; he cannot unring the bell. . .

Hartley Pen Co. v. Lindy Pen Co.,
16 F.R.D. 141, 153 (S.D. Cal. 1954)

In this case all of the relief prayed for in the original complaint has already been granted by an agreed order. As stated by the Supreme Court in Columbia Gas & Electric Corp. v. American Fuel & Power Co., 322 U.S. 379, 383 (1944), the intervenor is "limited to the field of litigation open to the original parties."

b). In Civil No. 6348, the petition against the United States pursuant to Rule 27 of the Federal Rules of Civil Procedure, this court's jurisdiction depends upon whether the expected action against the United States pursuant to the Federal Tort Claims Act will be within the jurisdiction of the federal courts. Petition of Ferkauf, 3 F.R.D. 89 (S.D. N.Y. 1943);
4 MOORE'S FEDERAL PRACTICE, paragraph 27.03, p. 1813.

It is clear that the cause of action alleged in Exhibit A to the petition states a claim for damages caused by governmental officials' actions in attempting to capture persons hijacking an

airplane in violation of federal law. The manner in which federal officials fulfill their duty to maintain law and order is discretionary, and petitioners' claim thus falls squarely within the "discretionary function" exception to the Federal Tort Claims Act, 28 U.S.C. § 2680(a). United States v. Faneca, 332 F.2d 872 (5th Cir. 1965); Nichols v. United States, 236 F.Supp. 260 (N.D. Miss. 1964); Dalehite v. United States, 346 U.S. 15 (1953); Muniz v. United States, 280 F.Supp. 542 (S.D. N.Y. 1968). Therefore, under the statutory language of 28 U.S.C. § 2680, the provisions of 28 U.S.C. § 1346(b), conferring jurisdiction upon the district courts over tort claims against the United States, "shall not apply." As said by our own Sixth Circuit Court of Appeals in United States v. Taylor, 236 F.2d 649, 652 (1956),

... it seems obvious that the exceptions to the Federal Tort Claims Act liability contained in 28 U.S.C.A. § 2680 are jurisdictional.

Since the federal courts would not have jurisdiction to entertain petitioners' anticipated action under 28 U.S.C. § 1346(b), it seems apparent that this court may not entertain this Rule 27 petition to preserve evidence for use in that action.

2. The court should not grant the request of the Petitioners to intervene for the following reasons:

a). The nature of the petition to intervene is such that it may appear to the court that WLAC-TV, Inc., and WSM, Inc., are really attempting to proceed pursuant to Rule 27 of the Federal Rules of Civil Procedure, although the action in which they seek to intervene was actually brought pursuant to 28 U.S.C. § 1651. However, if this petition were treated as a Rule 27 proceeding, the court would not have jurisdiction to act upon their request.

Under Rule 27(a) the petition must be filed in the district wherein any expected adverse party resides. Here, none of the adverse parties named in the Intervenor's petition are residents of the Middle District of Tennessee, but rather they are residents of Washington, D. C. Thus, the petition could only be filed in Washington, D. C. See Petition of Haussler, 10 F.R.D. 134 (1950), which held that depositions could only be properly taken in Washington, D. C. when the Attorney General was the only adverse party.

Moreover, the intervening petitioners do not propose to bring any action against the named defendants in the future. Therefore, they do not have a right to participate in discovery against these defendants pursuant to Rule 27.

b). The Public Information Act, 5 U.S.C. §552(b)(7), specifically exempts "investigatory files" from discovery. In the instant case, the Federal Bureau of Investigation has, in good faith, made the tape recordings sought by the Petitioners part of their investigatory files in connection with the possible prosecution of a related, pending criminal case. These tape recordings were made a part of the F.B.I.'s investigatory files not for the purpose of concealing information but rather for the purpose of promoting fair administration of justice.

To grant the petitioners' request to release the tape recordings would be to allow room for possible claims of prejudice by the defendant in the pending criminal prosecution aforementioned.

As stated in the Memorandum In Opposition to Petition to Intervene, the Petitioners have failed to show that the disposition of the original case will be such as to impair or impede their ability to protect their interests as required by Rule 24(a) of

Federal Rules of Civil Procedure. If the court denies the motion to perpetuate, the parties will still have at their disposal all of the adequate, customary remedies and discovery procedures which every litigant has under the Federal Rules. There has been no showing on the part of the petitioners that the tape recordings should be made public at this point at the expense of prejudicing the Government's interests.

As stated by the court in Campbell v. Eastland, 307 F.2d 478 (5th Cir., 1962), the trial judge in civil proceedings should not

... ignore the effect discovery would have on a criminal proceeding that is pending or just about to be brought. The very fact that there is a clear distinction between civil and criminal actions requires a government policy determination of priority: which case should be tried first. Administrative policy gives priority to the public interest in law enforcement. This seems so necessary and wise that a trial judge should give substantial weight to it in balancing the policy against the right of a civil litigant to a reasonably prompt determination of his civil claims or liabilities.

CONCLUSION

It is the Government's position that for the above-mentioned reasons the Petition to Intervene, the Motion to Have the Transcript Made a Part of the Record, and the Petition Pursuant to Rule 27, Federal Rules of Civil Procedure should be denied.

Respectfully submitted,

CHARLES H. ANDERSON
United States Attorney

By: Lawrence Ray Whitley
Lawrence Ray Whitley
Assistant U. S. Attorney

CERTIFICATE OF SERVICE

The undersigned hereby certifies that a true and exact copy of this pleading has been served upon counsel of record for all parties at interest in this cause by placing same in the United States mail addressed to said counsel at his office.

This the 28th day of Oct. 1961
Ames Davis
Assistant United States Attorney

By: Ames Davis
Ames Davis
Assistant U. S. Attorney

IN THE UNITED STATES DISTRICT COURT FOR MIDDLE TENNESSEE

Nashville Division

BIG BROTHERS AIRCRAFT, INC.,
et al
WLAC-TV, INC., Intervenor

VS.

CIVIL ACTION NO. 6322

JOHN VOLPE, Secretary of
Transportation, Federal
Aviation Administration,
JOHN SHAFFER, Administrator,
J. EDGAR HOOVER, Director of
the Federal Bureau of Investi-
gation

INTERVENOR'S PETITION

1. The Intervenor, WLAC-TV, Inc., is a Tennessee corporation, doing business in Nashville, Davidson County, Tennessee, and is owner and operator of a television station that telecasts news and other programs in the Middle Tennessee area.

2. Defendant, John Volpe, is the Chief Executive Officer of the Department of Transportation, which has direct authority over the Federal Aviation Administration. Defendant, Federal Aviation Administration, and John Shaffer, Administrator, operate the air traffic control facility at the Jacksonville, Florida, airport where certain tape recordings were made, as specified herein, and have the custody and control of such tape recordings.

Defendant, J. Edgar Hoover, is the Chief Executive Officer of the Federal Bureau of Investigation, which exercised authority over the occurrence during which the tape recordings were made, and which may have custody and control of the tape recordings.

3. The Intervenor, through its employees, has on several occasions requested that defendants make available to WLAC-TV certain tape recordings or permission to make copies thereof, that are in the possession and control of defendants. These tape recordings were made by defendants on or about October 4, 1971, at the airport in Jacksonville, Florida, and Jacksonville Air Control Center, Hilliard, Florida. These tapes record the radio

communications between the air traffic control tower in Jacksonville and a Hawk Commander 9058N airplane owned by Big Brothers Aircraft, Inc., which was being hijacked and in which three people were killed. The defendants have consistently refused to make available these tape recordings to WLAC-TV, or permit copies thereof to be made therefrom.

4. WLAC-TV submits that these tape recordings are of substantial and legitimate public interest, and are public records available to it under Title 5, Section 552 of the United States Code, which requires that such information be made available to any person on request.

WHEREFORE, Intervenor prays that a hearing be held at the earliest possible date, as provided in Title 5, Section 552 of the United States Code, and that defendants be enjoined from improperly withholding from Intervenor the requested tape recordings, or from allowing Intervenor to make copies thereof.

WILLIS, KNIGHT & BARR



Attorney for INTERVENOR
700 Union Street
Nashville, Tennessee 37219

IN THE UNITED STATES DISTRICT COURT FOR MIDDLE TENNESSEE

Nashville Division

FILED

OCT 21 1971

BIG BROTHERS AIRCRAFT, INC.
et al
WLAC-TV, INC., Applicant
for intervention

VS.

JOHN VOLPE, Secretary of
Transportation, Federal
Aviation Administration
JOHN SHAFFER, Administrator,
J. EDGAR HOOVER, Director of
the Federal Bureau of Investi-
gation

BRANDON LEWIS, Clerk
BY *Brandon Lewis* D.C.

CIVIL ACTION NO. 6322
MOTION TO INTERVENE
AS A PLAINTIFF

MOTION TO INTERVENE

1. The Intervenor, WLAC-TV, Inc., is a Tennessee corporation, doing business in Nashville, Davidson County, Tennessee, and is owner and operator of a television station that telecasts news and other programs in the Middle Tennessee area.

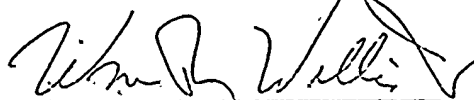
2. WLAC-TV moves for leave to intervene in this action under Rule 24(a) (2) of the Federal Rules on Civil Procedure in order that it may file the petition which is attached hereto.

3. As grounds for intervention, WLAC-TV asserts that it has an interest in the property which is the subject of the action and is so situated that the disposition of the action may as a practical matter impair or impede the Intervenor's ability to protect that interest. Intervenor's interest is not adequately represented by existing parties.

4. The original plaintiffs have applied for an order making certain tape recordings a part of the public record of this case. Intervenor is proceeding under the Public Information Act, Title 5, Section 552 of the United States Code, to secure these tape recordings, or copies thereof, for its own use. If the Court orders that the tape recordings be made a part of the

record of this case, the tape recordings will no longer be in the hands of the public officials, defendants herein, from whom the recordings would otherwise be sought. Since the same tape recordings are being sought both by the original plaintiffs and by the Intervenor, and since the defendants are the same, and since the action of this Court on original plaintiffs' motion shall determine the whereabouts of the tapes Intervenor seeks, Intervenor's rights are therefore directly affected by the action of this Court and can be protected only by an order allowing intervention.

WILLIS, KNIGHT & BARR


Attorney for WLAC-TV,
Applicant for Intervention

I CERTIFY THAT A COPY THE ABOVE PLEADING
HAS BEEN FURNISHED TO COUNSEL FOR ALL IN-
TERESTED PARTIES BY DELIVERY OR BY PLACING
SAME IN THE UNITED STATES MAIL, POSTAGE
PREPAID. THIS 21 DAY OF Oct, 19 71

WILLIS, KNIGHT & BARR
By 

November 5, 1971

R
Airtel

To: SAC, Jacksonville

From: Director, FBI

GEORGE MALLORY GIFFE, JR.
(DECEASED), AKA, ET AL.
CRIME ABOARD AIRCRAFT -
HIJACKING; KIDNAPING

Enclosed is one copy of transcript of the filtered
FAA tape recording. A filtered copy of the tape recording
is being forwarded your office under separate cover.

Jacksonville have Agents who were at the scene of
the hijacking review the filtered copy of this tape recording
and attempt to transcribe the unintelligible portions. Advise
Bureau of your results.

The FBI Laboratory is continuing its analysis of
the tapes to determine if these unintelligible portions can be
recovered.

Enclosure

NOTE: This concerns the hijacking of the chartered aircraft
from Nashville, Tennessee, to Jacksonville, Florida, 10/4/71.
An FBI Laboratory representative obtained copies of the original
FAA tape. A filtered copy has been reviewed and a transcript
made and both are being furnished to Jacksonville to allow Agent
personnel who were at the scene to further attempt to identify
unintelligible portions.

ENCLOSURE

CBjr:ige

(3)

MAIL ROOM ☐ TELETYPE UNIT ☐

Tolson _____
Felt _____
Rosen _____
Mohr _____
Bishop _____
Miller, E.S. _____
Callahan _____
Casper _____
Conrad _____
Dalbey _____
Cleveland _____
Ponder _____
Bates _____
Tavel _____
Walters _____
Soyars _____
Tele. Room _____
Holmes _____
Gandy _____

58 NOV 11 1971

REC-46

164-2042-172

NOV 8 1971

Eight hours, forty-six minutes, fifteen seconds

BACKGROUND:

Unintelligible

Radar contact.

It's six miles.

Yeah.

Unintelligible

Yeah.

Unintelligible

Who is behind him?

I don't know.

Ah so.

Alert this is another one.

Wait till they scramble us unintelligible it looks like he might have.

Four thirty come in.

Go ahead.

CONTROL TOWER: Ten.

Five Eight radar.

Unintelligible

Go ahead.

Jack approach Commander nine zero five eight November's with you out of eleven four ah I think it's five.

Commander five ah eight November Jacksonville approach control you're radar contact. You're landing at International.
Is that correct?

ENCLOSURE

1

164-2042-172

PILOT: Ah that is affirmative.

CONTROL TOWER: Roger. What's your compass heading sir?

PILOT: One three O

CONTROL TOWER:- Commander five eight November roger.

Unintelligible.

CONTROL TOWER: Raw heading of one five zero for vector to final approach course for ILS approach to runway seven maintain five.

PILOT: OK. Heading one five O and maintain five while out of eleven.

PILOT: Unintelligible what kind of visibility do you have down there now?

CONTROL TOWER: Prevailing visibility is five with ground fog as smoke, runway visual range is more than six thousand feet.

PILOT: Five eight November roger.

PILOT: Ah has our request ah been complied with?

CONTROL TOWER: We're checking on it for you right now sir.

BACKGROUND: He wants to know if his request been complied with.

CONTROL TOWER: We have been advised by aircraft services that they are trying to or are attempting to get ah your request completed

PILOT: Thank you.

CONTROL TOWER: I have a request on your ah freeport weather, you ready to copy?

PILOT: Ah, yeah, go ahead.

CONTROL TOWER: Ah, they're reporting at the last observation one thousand five hundred scattered visibility one zero two niner niner five the altimeter cumulus south, no wind to zero four zero degrees at four.

PILOT: OK. That was fifteen hundred scattered ten miles.

CONTROL TOWER: Commander five eight November. That is correct sir.

PILOT: Thank you.

CONTROL TOWER: Commander five eight November descend and maintain two thousand.

PILOT: OK. We're out of nine four two.

CONTROL TOWER: Jacksonville altimeter now sir is two niner niner seven.

PILOT: Two niner niner seven.

CONTROL TOWER: Hello, Commander five eight November turn right hitting one eight zero.

PILOT: One eight O, five eight November.

CONTROL TOWER: Commander five eight November contained to descend to maintain one thousand six hundred.

PILOT: OK. We're down to one thousand six hundred. Five eight November.

PILOT: OK. We're out of fifty five hundred. Ah five eight November was that down to fifteen hundred?

CONTROL TOWER: Commander five eight November, one thousand six hundred sir.

PILOT: OK. One thousand six hundred.

BACKGROUND: No I think its a DC six zero or Grand Commander if he can carry eight or more people.

CONTROL TOWER: Areo Commander five eight November turn left hitting one three zero six miles from ah outer compass locater.

PILOT: Three O. This is five eight November.

PILOT: Ah y'all going to maintain clearance around the plane about two, three hundred yards.

CONTROL TOWER: That information has been forwarded.

PILOT: Roger.

CONTROL TOWER: Commander five eight November what is your altitude now?

PILOT: We're out at twenty-four.

CONTROL TOWER: Commander five eight November turn left hitting one zero zero.

PILOT: One zero zero. Five eight November.

CONTROL TOWER: Continue left sir to zero eight zero to intercept localizer course four miles from the marker. Cleared for straight in ILS approach to runway seven.

PILOT: OK. Zero eight zero to intercept.

PILOT: Clear clear approach. You want us to stay on frequency?

CONTROL TOWER: I'm afraid it's a change here for you shortly.

Yeah.

BACKGROUND: He wants to see the unintelligible pilot. Unintelligible well you can unintelligible she got it up there to if you want to talk to him.

BACKGROUND: I don't need to talk unintelligible.

CONTROL TOWER: Commander five eight November you can remain this frequency you're clear to land runway seven, two and one half miles from the marker now. Clear for the approach straight in.

PILOT: OK.

CONTROL TOWER: The wind is variable at four.

PILOT: Five eight November we got the airport.

CONTROL TOWER: Commander five eight November thank you.

BACKGROUND: Yeah, I think you ought to switch him over to you cause I

b6
b7C

Where are they having those to refuel at?

I ain't going to be able to help him about getting to where he's supposed to go.

BACKGROUND: [] put him on here.

b6
b7C

CONTROL TOWER: Commander five eight November contact the tower now one eight point three sir and ah they'll have ah taxi direction information for ya on your left.

PILOT: Roger.

BACKGROUND:

Nine hours, zero minutes, twenty-five seconds. (beep)
Nine hours, zero minutes, thirty seconds. (beep)

PILOT: Unintelligible five eight November..

PILOT: Ah y'all gonna maintain clearance around the plane about two, three hundred yards?

CONTROL TOWER: Roger.

PILOT: We're out at twenty-four..

PILOT: One zero zero, five eight November.

PILOT: OK. Zero eight zero to intercept. Clear for approach you want to see us free?

BACKGROUND: Hey, ah

Yeah.

He wants to stay with you, he's clear to land, whatever he wants to do.

Unintelligible she got it up there to if you want to talk to him. I don't need him I'll unintelligible.

Change him over if he wants to change over. Alright.

PILOT: OK.

PILOT: Five eight November we got the airport.

BACKGROUND: []

Yeah.

BACKGROUND:

I think you ought to switch him over to you cause I.

Where are they having those to refuel at?

Unintelligible.

I won't be able to help him about getting to where he's supposed to go.

Yeah. Put him on here.

PILOT: Roger.

PILOT: Jacksonville Commander nine zero five eight November we're outside the marker.

CONTROL TOWER: Commander nine zero five eight November Jax prepared to land straight on runway seven. Wind is two eight zero degrees at three.

PILOT: Roger.

BACKGROUND: Control I don't know unintelligible.

BACKGROUND: I'm just listening, OK.

BACKGROUND: Close to your right just before you get to the control tower Unintelligible control tower.

BACKGROUND:

b6
b7c

Yeah.

Just in case he asks you ah all of his ah requests or demands either one whichever way he fingers it have been forwarded to the fix base operator and that's where we're sending it.

OK?

OK.

BACKGROUND: What's the story?

Unintelligible..

CONTROL TOWER: Good morning Jacksonville nine O eight. Nine zero eight and twenty seconds greenwich. Unintelligible. That's close enough.

PILOT: Five eight November we're on the ground and ah have all our requests been complied with?

CONTROL TOWER: Brother nine zero five eight November you can taxi straight ahead to the ah second intersection, taxi straight ahead on the runway.

PILOT: Straight in on the runway to the ah second intersection.

CONTROL TOWER: That's affirmative. Be a right turn off at the second intersection.

PILOT: Be a right turn off.

CONTROL TOWER: Unintelligible nine Commander nine zero five eight November right turn off the next intersection and taxi across the parallel straight into air kaman.

PILOT: OK. Straight into air kaman.

Nine to five? Go ahead.

BACKGROUND: Is he coming in here now?

BACKGROUND: Yeah.

BACKGROUND: Unintelligible I got the rifle. Tenfour unintelligible

PILOT: Straight ahead right here.

CONTROL TOWER: Ah straight ahead November nine zero five eight November all the way to the end.

PILOT: Roger.

PILOT: Ah five eight November ah I think it would be best if we parked somewhere close ah close to the edge out here. I don't want to get in too close to those buildings.

CONTROL TOWER: OK sir, that's what I have planned for you right straight ahead there on to the end of the taxi strip.

PILOT: Huh?

CONTROL TOWER: There's a parking pad right at the end of it.

PILOT: Is the fuel truck here?

CONTROL TOWER: You say is it a fuel truck?

PILOT: I said is the fuel truck here?

CONTROL TOWER: Affirmative.

CONTROL TOWER: Taxi straight ahead to the end now nine zero five eight November all the way to the end.

PILOT: Roger. Five eight November.

BACKGROUND: OK. That's where he makes the right hand turn. Tenfour. Another car.

PILOT: Make a left turn here?

CONTROL TOWER: Affirmative or you can park anywhere you like right in that area. A slight left right to the blue light sir.

PILOT: Say again.

CONTROL TOWER: Slight left turn.

PILOT: OK. We want to turn it around and head it back out.

CONTROL TOWER: You want to park right there eight five November for fueling?

PILOT: This is fine.

CONTROL TOWER: OK. That's fine. Right there.

CONTROL TOWER: Park right there where you're at.

PILOT: OK. Five eight November ah they are going to keep this area clear, is that correct?

CONTROL TOWER: Ah, that's affirmative.

PILOT: Alright.

PILOT: Ah what's the car sitting back off to our right?

CONTROL TOWER: Just an airport vehicle as far as I know sir.

PILOT: Does he have a radio in it?

CONTROL TOWER: Ah say again five eight November.

PILOT: Ah can you have him move away from over there by you or have air kaman find someone?

FBI: Five eight November.

PILOT: Yes.

FBI: Five eight November this is the FBI speaking. Cut your engines.

PILOT: Alright ah five eight November ah this is the captain speaking ah we are going to cut the engines and we are going to need some fuel but I request that everyone stay away.

FBI: Five eight November advise when your engines have been cut.

FBI: Five eight November.

PILOT: Ah this is five eight November ah this gentleman has about twelve point five pounds of plastic explosives back here and ah, and I got no yen to join him right now so I would appreciate it if you would stay away from this airplane.

FBI: Roger five eight November are your engines cut?

PILOT: Negative.

Unintelligible

FBI: Stand by.

BACKGROUND: Unintelligible we got him over in the pad over there but he don't want to stay.

BACKGROUND: Yeah, I know. This gentleman I have been talking to him about it and see unintelligible.

FBI: Five eight November.

PILOT: Five eight November go ahead.

FBI: This is the FBI. There will be no fuel, repeat, there will be no fuel, there will be no starters. You cut your engines.

BACKGROUND: Two eight zero return until six five zero zero return to five five zero zero till further.

BACKGROUND: [] hold everything on the ramp unintelligible. b6 b7C

PILOT: Ah look ah I don't think this fellows kidding. I wish you would get the fuel truck out here.

FBI: Five eight November there will be no fuel, I repeat, there will be no fuel.

PILOT: Hey listen, this is five eight November ah you are endangering lives by doing this and ah we have no other choice ah but to go along and ah for the ah sake of some lives I wish to request some fuel out here please.

BACKGROUND: Unintelligible thirty five hundred.

FBI: Five eight November ah what is the status of your passengers?

PILOT: Ah well actually they're Ok if that's what you mean.

CONTROL TOWER: Are they monitoring this conversation?

PILOT: Yes they are.

CONTROL TOWER: Ah do you have two passengers aboard?

FBI: Five eight November what is your present ah fuel status on that aircraft.

CONTROL TOWER. Unintelligible.

PILOT: We're down to about thirty minutes.

FBI: Five eight November there certainly will be ah no fuel for that aircraft, no starter. You can run it our anyway you want it. Ah passengers if you are listening, ah the only alternative in this aircraft is to depart the aircraft. To depart the aircraft.

BACKGROUND: Unintelligible.

BACKGROUND: No fuel, no starter, unintelligible.

FBI: Five eight November.

PILOT: Yeah.

FBI: Did someone deplane from your aircraft.

PILOT: That's affirmative, the copilot.

FBI: Five eight November.

BACKGROUND: That's the copilot.

PILOT: Yeah.

FBI: Your copilot is in the car and will not return to the aircraft. He will not return to the aircraft.

CONTROL TOWER: Five eight November.

Unintelligible.

Nine hours, thirty-five minutes, twenty seconds.

November 5, 1971

Airtel

1 - b6
1 - b7C
1 - Mr. Dalbey

To: SACs Jacksonville (164-103)
Memphis (164-76)

PERSONAL ATTENTION

From: Director, FBI

GEORGE MALLORY GIFFE JR., ET AL
CAA; KIDNAPING
OO: JACKSONVILLE

Enclosed for the Jacksonville and Memphis Offices is one copy of a self-explanatory letter to the Bureau from Assistant Attorney General L. Patrick Gray, III, Civil Division, and one copy each of a petition and motion furnished as an enclosure to Mr. Gray's letter to the Bureau.

Both offices should immediately insure that any and all documents and materials described in the enclosed petition and motion are preserved pending the conclusion of any civil litigation in captioned matter.

Enclosures (3)

RHM:bkc
(8)

MAILED 23

NOV 5 - 1971

FBI

NOTE: This concerns hijacking of chartered aircraft from Nashville, Tennessee, to Jacksonville, Florida, 10/4/71. Survivors of the deceased persons in the hijacking and owners of the aircraft involved have filed a Federal Tort Claim against the Government. In connection with this civil action, the Government has been served with a petition to insure any and all documents and materials described within the petition and motion are preserved and not altered pending outcome of any future civil litigation. Assistant Attorney General, Civil Division issued instructions to the Bureau that this be done.

Tolson _____
Felt _____
Rosen _____
Mohr _____
Bishop _____
Miller, E.S. _____
Callahan _____
Casper _____
Conrad _____
Dalbey _____
DeLoach _____
Gandy _____
Rosen _____
Sullivan _____
Tavel _____
Trotter _____
Tele. Room _____
Holmes _____
Gandy _____

MAIL ROOM ☐ TELETYPE UNIT ☐

REC-61

EX-100

NOV 9 1971

REC-76

164-2042-174

EX-101

October 29, 1971

- 1 - Mr. Rosen
- 1 - Mr. Mohr
- 1 - Mr. Bates
- 1 - Mr. Callahan
- 1 - Mr. Dalbey

b6
b7C



Nashville, Tennessee 37219

Gentlemen:

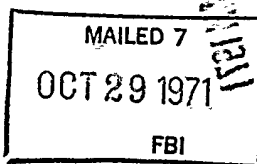
Your letter of October 15, 1971, regarding an administrative claim respecting the October 4, 1971, hijacking of Hawk Commander 9058N from Nashville, Tennessee, to Jacksonville, Florida, has been received. It and its attachment have been referred to the Department of Justice.

We have been advised that the Assistant Attorney General, Civil Division, will correspond with you concerning the matters set forth in your letter.

Sincerely yours,

J. Edgar Hoover

John Edgar Hoover
Director



1 - Assistant Attorney General
Civil Division

JAM:tak

(11)

SEE NOTE PAGE TWO.

- Tolson
- Felt
- Rosen
- Mohr
- Bishop
- Miller, E.S.
- Callahan
- Casper
- Conrad
- Dalbey
- Cleveland
- Ponder
- Bates
- Tavel
- Walters
- Soyars
- Tele. Room
- Holmes
- Gandy

MAIL ROOM ☐ TELETYPE UNIT ☐

Handwritten notes and signatures:
CWB
RJG
R
TSB
JAM
SPH

b6
b7C

NOTE: Referenced incoming letter dated October 15, 1971, was received from attorneys representing the estate of the deceased pilot and his next of kin, the estate of victim, Mrs. Susan Giffe, and her next of kin, and Big Brother Aircraft, Inc., the owner of the aircraft involved in the aircraft hijacking case which occurred at Jacksonville, Florida, October 4, 1971. The purpose of their letter was to file a formal administrative claim on behalf of these plaintiffs as a prerequisite to filing a civil suit against the United States under the Federal Tort Claims Act. This matter was referred to the Department and the Civil Division advised by memorandum 10/26/71, they will assume responsibility for the administrative claims which have been filed. They approved and suggested that we acknowledge the incoming letter in this manner.

UNITED STATES GOVERNMENT

DEPARTMENT OF JUSTICE

Memorandum

TO : Mr. J. Edgar Hoover
Director
Federal Bureau of Investigation

DATE: OCT 26 1971

LPG: [REDACTED]
157-71-148

FROM : L. Patrick Gray, III
Assistant Attorney General
Civil Division

SUBJECT: Administrative Claims Respecting October 4, 1971
Hijacking of Hawk Commander 9058N From Nashville,
Tennessee, To Jacksonville, Florida

Mr. Tolson	
Mr. Felt	
Mr. Rosen	b6
Mr. Mohr	b7C
Mr. Bishop	
Mr. Miller, ES	
Mr. Callahan	
Mr. Casper	
Mr. Conrad	
Mr. Dalbey	
Mr. Cleveland	
Mr. Ponder	
Mr. Bates	
Mr. Tavel	
Mr. Walters	
Mr. Soyars	
Tele. Room	
Miss Holmes	
Miss Gandy	

164-2042-99
Your memorandum of October 20, 1971 addressed to the Attorney General concerning the above matter has been referred to me for appropriate response.

As provided in 28 C.F.R. § 0.172 the Civil Division will assume responsibility for the administrative claims which have been filed. Accordingly, we will undertake to reply to the letter of October 15, 1971 from counsel for the claimants. We have no objection to your acknowledging receipt of the letter of October 15, 1971 in the manner set forth in your memorandum. You may also wish to advise the attorneys for the claimants that the Department of Justice will correspond with them concerning the matters set forth in their letter.

Brent Quinlan, Mrs. Susan Helen Gitter

Big Brother Aircraft, Inc

1-222-5730 f.13.

EX-101

REC-76

OCT 27 1971

MC-58

ENCLOSURE
ENCLOSURE ATTACHED

2

2



164-2042-174

ENCLOSURE

LAW OFFICES

TELEPHONE

October 15, 1971

The Honorable John Mitchell
Attorney General of the United States
Department of Justice
Washington, D. C. 20000

The Honorable J. Edgar Hoover, Director
Federal Bureau of Investigation
Department of Justice
Washington, D. C. 20000

The Honorable John Volpe
Secretary of Transportation
Department of Transportation
Washington, D. C. 20000

The Honorable John Shaffer, Administrator
Federal Aviation Administration
Department of Transportation
Washington, D. C. 20000

Re: Administrative Claim Respecting October 4, 1971,
Hijacking of Hawk Commander 9058N from Nashville,
Tennessee, to Jacksonville, Florida

Gentlemen:

*ack
10/20/71
for 4/17*

The undersigned attorneys jointly represent the interests of
(1) the estate of Brent Quinton Downs, deceased, and his next-of-kin,
[redacted] and his surviving child, [redacted]
[redacted] nineteen months of age, [redacted]
(2) the estate of Mrs. Susan Lakich Giffe, deceased, and
her next-of-kin, [redacted] her surviving child, age
twenty-two months, and [redacted] who are Mrs.
Giffe's mother and father and the guardians of her surviving child,
all residing at [redacted] and (3)
Big Brother Aircraft, Inc., a Tennessee corporation, and its owner
and president, [redacted]

The purpose of this letter is to file a formal Administrative
Claim on their behalf pursuant to the Federal Tort Claims Act, as
amended, 28 USC §§ 1346(b), 2672, 2674 and 2675, for compensation for

The Honorable John Mitchell
The Honorable J. Edgar Hoover
The Honorable John Volpe
The Honorable John Shaffer

October 15, 1971
Page 2

wrongful death, injuries and damage resulting from the negligence, reckless disregard of life and property and other wrongful acts and omissions of agents and employees of the United States, namely employees and agents of the Department of Justice, Federal Bureau of Investigation, and the Department of Transportation, Federal Aviation Administration, acting within the scope of employment.

The wrongful acts occurred on or about October 4, 1971, at the airport in Jacksonville, Florida, in connection with such agents' treatment and handling of the hijacking of a Hawk Commander 9058N airplane owned by Big Brother Aircraft, Inc. The United States agents and employees failed and refused to refuel or permit refueling of the airplane after repeated requests by the pilot, Brent Quinton Downs, or otherwise to follow his requests and instructions with respect to the treatment and handling of the hijacking, opened fire upon the aircraft and failed to safeguard and protect the lives of the occupants of the plane. The United States agents had been warned and had actual knowledge that threatening conduct and hostile acts toward the plane and its occupants would create an unreasonably great risk of harm and the heedless and careless behavior of these agents fell far below the standard established by law for the protection of others against injury and unreasonably, recklessly and negligently magnified the danger of injury to the occupants. The agents' failure to heed the warnings given and failure to guard against the risk of injury apparent from the facts within their knowledge proximately caused the deaths and damages suffered. As a result of these wrongful acts by United States agents, the hijacker of the plane killed Brent Quinton Downs and Susan Lakich Giffe and then killed himself, and the aircraft was severely damaged.

For your information we are attaching a transcript of the recordings of radio communications between the pilot of the airplane and government employees at Jacksonville, Florida, as evidence of wrongful conduct of the agents of the United States in connection with the hijacking. Agents of the Federal Bureau of Investigation approached the airplane on the ground and began firing upon the aircraft at approximately 9:30 A.M. Greenwich Mean Time or 5:30 Eastern Daylight Time, contrary to the repeated instructions of the pilot, as evidenced by the attached transcript.

For these wrongful acts and omissions, notice of an Administrative Claim is hereby given to the Department of Justice, Federal Bureau of Investigation, and the Department of Transportation, Federal Aviation Administration, as follows:

The Honorable John Mitchell
The Honorable J. Edgar Hoover
The Honorable John Volpe
The Honorable John Shaffer

October 15, 1971
Page 3

1. The estate and next-of-kin of Brent Quinton Downs claim damages for wrongful death in the amount of One Million Five Hundred Thousand Dollars (\$1,500,000.00).
2. The estate and next-of-kin of Susan Lakich Giffe claim damages for wrongful death in the amount of Seven Hundred Fifty Thousand Dollars (\$750,000.00).
3. Big Brother Aircraft, Inc. and [redacted] as president and owner, claim damages to the aircraft, its loss of use and damage to his business resulting therefrom in the amount of Two Hundred Fifty Thousand Dollars (\$250,000.00).

b6
b7C

The purpose of this notice is to comply fully with the provisions of the Federal Tort Claims Act requiring the filing of an Administrative Claim prior to the institution of a suit in Federal District Court for damages. Please advise us forthwith if you should take the position that this letter does not fully and completely comply with filing requirements under the Act and specify what further steps you deem necessary to satisfy the filing requirements for these Administrative Claims.

Sincerely,



GSM:plz

Enclosure

cc: The Honorable Charles H. Anderson
United States District Attorney
for Middle Tennessee
United States Court House
801 Broad Street
Nashville, Tennessee 37203

The Honorable John Mitchell
The Honorable J. Edgar Hoover
The Honorable John Volpe
The Honorable John Shaffer

October 15, 1971
Page 4

cc: (Continued)

Assistant Attorney General of the Civil Division
Department of Justice
Washington, D. C. 20000

The Federal Aviation Administration
Regional Office
Atlanta, Georgia 30304

Special Agent in Charge Alexander
Federal Bureau of Investigation
United States Court House
Jacksonville, Florida 32201

Agent
Federal Bureau of Investigation
United States Court House
801 Broad Street
Nashville, Tennessee 37203

b6
b7C

NASHVILLE TAPE

Pilot: Commander 9058. We're at Big Brother. We're instruments down to Atlanta. We're ready to taxi.

Ground Control: Commander 9058 November, Nashville Ground Control.

Taxi Runway 31 or 2R, your choice. The wind is calm, the altimeter 30.00. Over.

P: OK. Thirty aught. And, uh, we'll take 31.

GC: All right, sir. Have your clearance when you are ready to copy.

P: OK. Ready to copy.

GC: Commander, 58 November. Cleared to the Atlanta airport, as filed. Maintain one one thousand. Expect further clearance at one three thousand within 10 minutes after departure, and squawk one thousand just before departure.

P: Cleared to Atlanta as filed, one one thousand expect one three thousand in 10 minutes. Squawk one thousand.

GC: Commander 58 November. Readback correct.

(Pause)

0655.10

0657.15

Airport Security Police: 52 Ground.

GC: 52 Ground. Go ahead.

AP: (Reply unclear)

GC: Say again, 52.

AP: We're (unclear) this aircraft.

GC: Roger.

0657.55

P: 58 November's rolling. (Pause) Commander 58 November. We're rolling, 31.

0658.25

AP: 52 Ground, we're going down the runway.

GC: Roger.

0658.40

0658.50

AP: It don't look like he's going to stop.

GC: You're right there.

AP: Clear to cross 2L--20R?

GC: Cross 2L--20R.

0659.05

AP: I guess you better call the FBI.

P: OK, 58 November's runway heading.

GC:] 58 November, make left or right turn.. Proceed on course.

P: OK. 58 November. Be a left turn on course.

0659.35

GC: Commander 58 November, squawk 3100. Over.

P: OK. Squawking 3100.

GC: Commander 58 November's radar contact.

P: 58 November.

(Pause)

0700.40

0701.10

GC: Commander 9058 November. Climb and maintain one three thousand.

Contact Memphis Center one two five point four. Over.

P: One two five point four and we're up to one three thousand.

GC: Good night.

0702.00

JACKSONVILLE TAPES

On 4 October 1971 I hereby certify that the following is a true re-recording of a recorded conversation pertaining to subject incident taken from the Jacksonville Center reel No. 131, track No. 16. My name is [REDACTED] ATCS, Jacksonville Air Route Traffic Control Center, Hilliard, Florida.

b6
b7C

0825.35

Pilot: Jacksonville Center, 9058 November, one seven thousand.

ATC: Commander 9058 November, Jacksonville Center, one seven thousand, ident.

P: Got it.

ATC: Commander, 58 November, the Alma altimeter missing, the Jacksonville altimeter 29.98.

P: Niner niner eight.

0826.00

0826.20

P: Jacksonville Center, 58 November, could you tell me what your weather is there at the airport, please?

ATC: Standby one, 58 November. I'll check on the latest weather.

0826.40

0828.10

ATC: Commander 58 November. The Jacksonville weather.

P: All right, sir, go ahead.

ATC: This is a special observation. Clear visibility at 5 and ground fog and smoke. Runway visual range for Runway 7 was 4,000 feet and they have a one point temperature dew point spread now.

P: All right, sir. Would it be too much trouble to find out what the spread was last hour so I can have some idea what the trend's going to be?

ATC: Roger. It's been that way for at least three or four hours now. They've had a one point spread. It's held five miles visibility.

P: OK. Very good. Thank you.

0829.00

0836.55

P: Jax Center, 58 November.

ATC: 58 November, go ahead.

P: All right, sir; we've got kind of unusual situation here, uh--uh, we're going to need some fuel at Jackson and, uh, we can't

have anybody around except the fuel truck and the man fueling. Uh, nobody else in the area. We will need flotation gear and, uh, if there's any way possible I need some charts and approach plates for Freeport. Yeah, we need jet fuel. And if you can't, wish you could work out some kind of flight plan--vector us to Freeport, and, we need to make sure that there is nobody, and I emphasize that, nobody around the airplane except the fuel truck and the attendant.

ATC: 58 November, Jacksonville copied it all, copied it all.

P: All right. We need flotation gear. This is a, uh, this is an eight place airplane. Just make flotation gear for that will be sufficient.

ATC: 58 November. Wilco. Wilco.

P: Call me back on that if you can and let me know if there is going to be any delays at all in the fuel truck waiting on us when we get there.

ATC: 58 November. Everything will be ready. Everything will be ready as specified.

P: All right and, uh, all right, they say to clear the area for at least 200-300 yards around the airplane and make sure there is nobody around it.

ATC: 58 November. Copied. Copied.

P: Thank you, sir.

0839.00

0840.10

P: Center, have another unusual request. Uh, two bottles of Scotch.

ATC: 58 November. Understand.

P: Chevas 12 if you can get it. And also on that routing I would prefer to stay over land as much as possible until we make the direct entry to Freeport there and if you could give me the mileage since I don't have the charts I would appreciate that so I can kind of figure some fuel here.

ATC: 58 November. Will work on that and advise.

0840.55

0842.15

ATC: 58 November. The mileage to Freeport's 320 nautical miles; that's taking you over Palm Beach and then direct Freeport.

P: OK. 320 nautical miles?

ATC: That is correct.

P: OK. And I hope you did get that, we will need some charts then. Could you get the weather on out that way?

ATC: Affirmative. I'll get the weather now.

P: Roger.

0842.45

0843.00

P: Center, 58 November. We'd like an APU for a restart after we get there at Jacksonville.

ATC: 58 November. Copy, APU.

P: Roger.

0843.15

0844.00

ATC: Commander, 9058 November. Descend at pilot's discretion to maintain 5,000. Jacksonville altimeter, 29.98

P: OK. 29.98. And at our discretion down to 5,000.

0844.15

0845.25

P: 58 November. We're out of one seven for 5,000.

ATC: 58 November.

0845.40

0850.00

ATC: Delta 592, say altitude.

Delta: We're out of eleven three.

ATC: 9058 November, say altitude.

P: Out of one four thousand.

ATC: Roger.

0850.20

0851.05

P: 58 November. Are you showing traffic at about our 12, about 11:30 position?

ATC: Affirmative. About eleven o'clock and 10 miles, northwest bound. He'll pass five miles off to your left. It's a Delta jet climbing.

P: OK. We've got him. He's got his light on.

0851.25

ATC: Delta 592. Traffic (faded out on tape)

Delta: Yeah, I got him, too.

0851.40

0851.45

P: You want to trade places, Delta?

Delta: You going home?

P: Negative.

Delta: We've got about seven more hours to go--yeah, we'll trade.

(Pause) We've got all those milkcans (fade)

P: Say again?

Delta: We've got to deliver all those milk cans.

P: Yeah.

0852.15

0852.50

ATC: 9058 November, contact Jacksonville approach control, 118.0.

P: All right, sir. 118.0.

0853.00

End of re-recording

b6
b7C

The following is a re-recording of a re-recording of radar hand-off between the Atlanta Center and the Jacksonville Center reference 9058 November 4 October 1971.

0823.00

Atl: 10 northwest of Vienna, squawking 3100, Aero Commander 9058
November one seven thousand.

Jax: Radar contact.

Atl: His ETA that he gave us for Jacksonville was 0915 Z.

Jax: OK. Thank you.

Atl: Fuel until 11:28 Z.

Jax: Fuel until 11:20?

Atl: 11:28 Z.

Jax: 28. (Pause) OK. Thank you.

0823.25

JACKSONVILLE TOWER TRACON TAPES

0852.00

Tower: Go ahead. (Pause) 58 November is radar. (Pause) Yes? Go ahead.

Pilot: Jacksonville approach. Commander 9058 November is with you out of eleven for, I think it's five.

T: Commander 58 November, Jacksonville approach control. You are radar contact. You are landing at the International. Is that correct?

P: That is affirmative.

T: What's your compass heading, sir?

P: One three O.

T: Commander 58 November. Roger. Come on a heading of 150 for a vector to the final approach course for an ILS approach to Runway 7. Maintain five.

P: OK. Heading 150 and maintain five. We're out of eleven. What kind of visibility you got down there now?

T: The building visibility is five with ground fog and smoke. The runway visual range is more than 6,000 feet.

P: 58 November. Roger. (Pause) Has our request been complied with?

T: We're checking on it for you right now, sir. (Pause) We've been advised by Aircraft Services that they're trying to, attempting to get your request completed.

P: Thank you.

0854.55

T: I have a request on your Freeport weather. Are you ready to copy?

P: Yeah. Go ahead.

T: OK. They're reporting at the last observation 1,500 scattered, visibility ten. 29.95 the altimeter, cumulus south.

T (continued): The wind is .040° at four.

P: OK. That was 1500 scattered, 10 miles.

T: Commander 58 November. That's correct, sir.

P: Thank you.

T: Commander 58 November. Descend and maintain 2,000.

P: OK. We're out of nine for two.

T: Jacksonville altimeter, sir, is now 29.97.

P: Two niner niner seven.

(Pause)

T: Commander 58 November. Turn right heading 180.

P: 180. 58 November.

(Pause)

T: Commander 58 November. Continue descent to maintain 1,600.

P: OK. We're down to 1,600. 58 November.

(Pause) We're out of 5500. 58

November. Was that down to 1,500?

T: Commander 58 November. 1,600, sir.

P: OK. 1,600.

T: Aero Commander 58 November. Turn left heading 130, six miles from outer compass locator.

P: One three O, 58 November. (Pause)

Y'all going to maintain clearance around the plane about 200-300 yards?

T: That information has been forwarded.

P: Roger.

T: Commander 58 November. What is your altitude now?

P: We're out of 24.

T: Roger.

0902.20

T: Commander 58 November. Turn left heading 100.

P: One zero zero. 58 November.

T: Continue left, sir, to zero eight zero to intercept, localizer course; 4 miles from the marker. Cleared for a straight in ILS approach into Runway 7.

P: OK. 080 to intercept. Clear for approach. You want us to stay on freq?

T: I'll have frequency change here for you shortly.

(Pause)

T: Commander 58 November. You can remain this frequency. You're clear to land Runway 7. You're 2 and one-half miles from the marker now. Clear for the approach straight in.

P: OK.

T: The wind is variable at four.

P: Right.

(Pause)

P: 58 November. We got the airport.

T: Commander 58 November. Thank you.

(Pause)

T: Commander 58 November. Contact the tower now, 118.3., sir, and he'll have taxi direction information for you when you land.

P: Roger.

P: 58 November. We're outside the marker.

T: Commander 9058 Normal, Jax. You're cleared to land on straight at Runway 7. The wind is 280° at 3.

P: Roger.

(Pause)

0905.20

P: 58 November. We're on the ground. Have all our requests been complied with?

T: Commander 58 November. You can taxi straight ahead to the second intersection, taxi straight ahead on the runway.

P: Straight ahead on the runway to the second intersection.

T: That's affirm. You're ready to turn off on the second intersection.

P: OK. Right turnoff.

(Pause)

T: Commander 9058 November, right turn off at the next intersection and taxi across the parallel, straight into Air Kaman.

P: OK. Straight into Air Kaman.

P: Straight ahead right here.

T: Straight ahead, Commander 9058 November, all the way to the end.

P: 58 November, I think it would be best if we parked somewhere close, out close to the edge. I don't want to get in too close to those buildings.

T: OK, sir; that's what I had planned for you. Right straight ahead there to the end of the taxi strip. There's a parking pad right at the end.

P: Is the fuel truck here?

T: You say is it a fuel truck?

P: I say is the fuel truck here?

T: Affirmative.

T: Taxi straight ahead to the end, Commander 58 November, all the way to the end.

P: Roger. 58 November.

(Pause)

P: Make a left turn here?

T: Affirmative. You can park anywhere you like in that area. Slight left up to the blue lights.

P: Say again.

T: Slight left turn.

P: OK. We're going to turn it around and head it back out.

T: You want to park right there, 85 November, for fueling?

P: That'd be fine.

T: OK. That's fine. Right there. Park right where you're at.

P: 58 November. They are going to keep this area clear. Is that correct.

T: That's affirmative.

P: All right. (Pause) What's the car sitting back off to our right?

T: It's just an airport vehicle as far as I know, sir.

P: Does he have a radio in it?

T: Say again, 58 November.

P: Can you have it moved away from over there, maybe have Air Kaman find someone?

T: 58 NOVEMBER?

P: Yes.

T: 58 NOVEMBER. THIS IS THE FBI SPEAKING. CUT YOUR ENGINES.

(Pause)

P: 58 November. This is the captain speaking. We're going to cut the engines and we're gonna need some fuel but I request that everyone stay away.

T: 58 NOVEMBER. ADVISE WHEN YOUR ENGINES HAVE BEEN CUT.

T: 58 NOVEMBER?

P: This is 58 November. Uh, this gentleman has about 12.5 pounds of plastic explosives back here, and (pause) uh, I got no (pause) uh, yen to join it right now so I would please expr, uh, appreciate it if you would stay away from this airplane.

T: THAT'S A ROGER, 58 NOVEMBER. ARE YOUR
ENGINES CUT?

P: Negative.

T: STANDBY.

P: Where's the fuel truck?

(Pause)

T: 58 NOVEMBER?

P: 58 November. Go ahead.

T: THIS IS THE FBI. THERE WILL BE NO
FUEL. REPEAT. THERE WILL BE NO FUEL.
THERE WILL BE NO STARTER. HAVE YOU
CUT YOUR ENGINES?

(Pause)

P: Uh (gasp), look, I don't think this
fellow's kiddin'--I wish you'd get
the fuel truck out here.

T: 58 NOVEMBER. THERE WILL BE NO FUEL.
I REPEAT. THERE WILL BE NO FUEL.

P: This is 58 November. You are endanger-
ing lives by doing this, and uh, we have
no other choice but to go along, and uh,
uh, for the sake of some lives we
request some fuel out here, please.

(Pause)

T: 58 NOVEMBER. WHAT IS THE STATUS OF
YOUR PASSENGERS?

P: Ah, uh, well, they're okay, if that's
what you mean.

T: ARE THEY MONITORING THIS CONVERSATION?

P: Yes, they are.

T: DO YOU HAVE TWO PASSENGERS ABOARD?

(Pause)

T: 58 NOVEMBER. WHAT'S YOUR PRESENT
FUEL STATUS ON THAT AIRCRAFT?

P: We're down to about thirty minutes.

T: 58 NOVEMBER. THE DECISION WILL BE NO
FUEL FOR THAT AIRCRAFT. NO STARTER.
RUN IT OUT, ANY WAY YOU WANT IT.
PASSENGERS, IF YOU ARE LISTENING--

THE ONLY ALTERNATIVE IN THIS
AIRCRAFT IS TO DEPART THE AIRCRAFT,
TO DEPART THE AIRCRAFT.

(Long pause)

T: 58 NOVEMBER?

P: Yeah.

T: DID SOMEONE DEPLANE FROM YOUR
AIRCRAFT?

P: That's affirmative. The copilot.

(Pause)

T: 58 NOVEMBER?

P: (Muffled reply)

T: THE COPILOT IS IN THE CAR AND WILL
NOT RETURN TO THE AIRCRAFT. HE
WILL NOT RETURN TO THE AIRCRAFT.

0928.25

0931.35

T: 58 NOVEMBER?

0933.15

FEDERAL BUREAU OF INVESTIGATION

Washington, D. C. 20537



REPORT

of the

IDENTIFICATION DIVISION

LATENT FINGERPRINT SECTION

ST-110 164-103
 YOUR FILE NO. 164-2042 -175
 FBI FILE NO. REC-22
 LATENT CASE NO. A-43356

November 5, 1971

TO: SAC, Jacksonville

GEORGE MALLORY GIFFE, JR., (DECEASED);

RE:

MRS. GEORGE M. GIFFE, JR., AKA - VICTIM (DECEASED)
 CAA - HIJACKING; KIDNAPING

b6
b7C

Jacksonville letter 10-15-71 and Memphis airtel
 10-19-71

REFERENCE:

EXAMINATION REQUESTED BY: Jacksonville and Memphis Divisions

SPECIMENS: Specimens submitted with Jacksonville letter:

One "Chevis Regal" bottle, Q20

Three metal cups

Forty plastic cups in three plastic bags

Three beer cans and beer can carrier

One beer can pull tab

Specimens submitted with Memphis airtel:

Seven transparent lifts

MAILED 9

NOV 8 - 1971

FBI

This report confirms and supplements Buairtel
 dated 10-26-71.

Two latent fingerprints of value developed on
 bottle, Q20, and three latent fingerprints appear on
 two of the lifts. No latent prints of value appear on

2 - Memphis (164-76)- Enc. (7) (Continued on next page)

Tolson _____
 Sullivan _____
 Mohr _____
 Bishop _____
 Brennan, C.D. _____
 Callahan _____
 Casper _____
 Conrad _____
 Dalbey _____
 Felt _____
 Gale _____
 Rosen _____
 Tavel _____
 Walters _____
 Soyars _____
 Tele. Room _____
 Holmes _____
 Gandy _____

WNV:bka
 (7)

John Edgar Hoover, Director

THIS REPORT IS FURNISHED FOR OFFICIAL USE ONLY

MAIL ROOM ☐ TELETYPE UNIT ☐

SAC, Jacksonville

November 5, 1971

were developed on remaining items.

One latent fingerprint not identical with fingerprints of George Mallory Giffe, Jr., Susan L. Giffe or [redacted] FBI [redacted] See attached pages for results of additional comparisons.

b6
b7C

Lifts being returned as enclosures with copies of this report to Memphis.

Laboratory report and disposition of all other specimens separate.

Jacksonville File No. 164-103
FBI File No. 164-2042
Latent Case No. A-43356

November 5, 1971

RE: GEORGE MALLORY GIFFE, JR. (DECEASED)

Two latent fingerprints of value developed on the "Chevis Regal" bottle, Q20, have been identified as fingerprints of Giffe.

Memphis File No. 164-76
FBI File No. 164-2042
Latent Case No. A-43356

November 5, 1971

RE: GEORGE MALLORY GIFFE, JR. (DECEASED)

One latent fingerprint of value appearing on
on a lift labeled "Left front door," and one latent
fingerprint appearing on a lift labeled "Left front
window (Inside)," have been identified as fingerprints
of Giffe.

FEDERAL BUREAU OF INVESTIGATION
LATENT FINGERPRINT SECTION WORK SHEET

Recorded: 10-21-71 4:00p.m. amg

Reference No: 164-76

Received: 10-21-71

FBI File No: 164-2

Latent Case No: A-43356

Answer to: SAC, Memphis

Examination requested by: \ Addressee

Copy to: 2^{cc} SAC, Jacksonville (164-103)

RE: GEORGE MALLORY GIFFE, JR., (DECEASED);

MRS. GEORGE M. GIFFE, JR., AKA-VICTIM (DECEASED)
CAA-HIJACKING; KIDNAPING

b6
b7C

Date of reference communication: Airtel 10-19-71
Specimens: 3 cards bearing 7 transparent lifts

Named Subject:

FBI #

Names submitted for comparison purposes of:

GEORGE MALLORY GIFFE, JR.

MRS. SUSAN L. (per signature)
~~GEORGE M.~~ GIFFE, JR.

Result of examination:

6 left to photo

10/26/20

Examination by:

Evidence noted by:

1 lat. figt. on left on card labeled "Left front door" - Ø # 4, George Mallory Giff, Jr.

2 lit. photo. on 2 films on card labeled "left front windows (inside)" 18 x 1, mallow 4 vertical

Notified SA. [redacted] 231, from [redacted] (general), 12/1/77, Air. 6. He advised pending intel

Collected C.I. - Prints for George + Susan Griffe not yet in file - stops placed in C.I.
11/29/92

2 let. fypb. not ϕ

airtel R-26-71
S.M.: TAM

checked C.I. - $\frac{11}{11/4}$ Pts. George & Susan Giffle still not located

127
P.O. George & Emerson Gilfillan located & confirmed

1 lat. 1 apt. out of 1 apt. George & Susan Kiffner (Type side pt. compare & comparable)

^{miss} Pitt returned enclosed (To Jacksonville) + envelope

Examination completed 45 min. 11/4/71
Time Date

Dictated 11/17/71
Date

Qued. 11-5-71
Khu: bte

7-2
RECORDING

10/19/71

prb

FEDERAL BUREAU OF INVESTIGATION
UNITED STATES DEPARTMENT OF JUSTICE

LATENTS

Recorded: 10-20-71

12:50 P.M. tmm
Laboratory Work Sheet

Received: 10-20-71

Re. GEORGE MALLERY GIFFE, JR. (deceased);
[redacted]

File # 164-2042-175
Lab. # PC-H2213 MK
LC# A-43356

MRS. GEORGE M. GIFFE, JR., aka.-

VICTIM (deceased)

CRIME ABOARD AIRCRAFT - HIJACKING;

KIDNAPING

(OO: JK)

Examination requested by:

2cc. Memphis (164-76)

Examination requested:

SAC, Jacksonville (164-103) Let 10/15/71

Chem Analyses (Gen Chem) Date received: 10/18/71 rex
Fingerprint

Examination by:

Result of Examination:

all items to LIPS for exam + ret to
Seq up 10/20/71 [redacted]

Noted By:

Names Submitted for comparison purposes of:

GEORGE MALLERY GIFFE, JR. (Deceased)

[redacted]

FOI #

[redacted]

SUSAN L. (per previous)
MRS. GEORGE M. GIFFE, JR.

Specimens submitted for examination

Q20

"Chavis Regal" bottle

Also Submitted:

- Three metal cups
- Twenty plastic cups in plastic bag
- Twenty foam cups in two plastic bags
- Three beer cans
- Plastic beer can carrier
- Beer can pull tab

-10/21 WEL-

proc metal cups 2 mag powder

proc 400 + can #15 black powder - 220 + plastic bag (containing 2
plastic cups) to [redacted]

more to [redacted]

(OVER)

Examination completed

2:00 PM
Time

11/4/71
Date

Dictated

11/4/71
Date

Ans. 11-5-71 [redacted]

airtel 10-26-71
JMM:TM

[Handwritten signature]

10/26 ^{for}
2 lat. fpts. rec. on "Chamo Regal" bottle, Q20 - 1 #9, George Mallory Giffe, Jr.
~~1 #4, " " " " " "~~

Notified S.A. [redacted] Dir. 6, He advised sending airtel
prints for George & Susan Giffe not yet in file - stops placed in C.I.

10/29 ^{for}
1 lat. fpt. not [redacted]

11/3 ^{for}
Checked C.I. Pts. for George & Susan Giffe still not in file

11/4 ^{for}
* all spec's, returned to Lab.
Pts. George & Susan Giffe located & compared

b6
b7C

FBI

Date: 10/19/71

Transmit the following in _____
(Type in plaintext or code)Via Airtel _____
(Priority)

TO: DIRECTOR, FBI
ATTENTION: IDENTIFICATION DIVISION,
LATENT FINGERPRINT SECTION

FROM: SAC, MEMPHIS (164-76) (P)

SUBJECT: GEORGE MALLORY GIFFE, JR.,
(DECEASED) - [REDACTED]

Mrs. GEORGE M. GIFFE, JR., aka -
VICTIM (DECEASED)
CAA - HIJACKING; KIDNAPING

OO: JACKSONVILLE

Re Jacksonville airtel to Bureau, Attention:
Identification Division dated 10/7/71 and report of
SA [REDACTED] 10/14/71, at Memphis.

Enclosed herewith for the Latent Fingerprint Section
of the Identification Division are three latent lifts.

The Bureau has previously been provided with full
background information in this case by rerep wherein subjects,
on 10/4/71, hijacked airplane at Nashville, Tennessee, owned
by Big Brothers Aircraft, Inc., Nashville, Tennessee, and
landed in Jacksonville, Florida, same date.

ST-110
REQUEST OF LATENT FINGERPRINT SECTION

(1) Will determine if enclosed lifts, taken from
1970 Cadillac, owned by subject GIFFE, are of value.

- 3 - Bureau (Encls. 3) (RM)
2 - Jacksonville (164-103)
2 - Memphis
PHT:tjm
(7)

PHT:tjm
(7)

16 OCT 21 1971

Approved: JUB
Special Agent in Charge

Sent _____ M Per _____

164-2042

ME 164-76

(2) If prints are of value, will compare same with major case prints of GEORGE MALLORY GIFFE, JR., [REDACTED] and Mrs. GEORGE M. GIFFE, JR., previously submitted by Jacksonville Division with re airtel.

b6
b7C

(3) Will advise Jacksonville and Memphis of results of comparison.

(4) Will return lifts to Memphis Division, upon completion of examination for return to Nashville, Tennessee, Police.

EXPEDITIOUS HANDLING REQUESTED AS CASE BEING HANDLED AS "SPECIAL."

10/19/71

Airtel

TO: DIRECTOR, FBI
ATTENTION: IDENTIFICATION DIVISION,
LATENT FINGERPRINT SECTION

FROM: SAC, MEMPHIS (164-76) (P)

SUBJECT: GEORGE MALLORY GIFFE, JR.,
(DECEASED); [REDACTED]

Mrs. GEORGE M. GIFFE, JR., aka -
VICTIM (DECEASED)
CAA - HIJACKING; KIDNAPING

OO: JACKSONVILLE

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1970 Cadillac, owned by subject GIFFE, are of value.

- ③ - Bureau (Encs. 3) (RM)
- 2 - Jacksonville (164-103)
- 2 - Memphis

PHT:tjm
(7)

b6
b7c

NE 164-76

(2) If prints are of value, will compare same with major case prints of GEORGE MALLORY GIFFE, JR., [REDACTED] and Mrs. GEORGE M. GIFFE, JR., previously submitted by Jacksonville Division with re airtel.

b6
b7C

(3) Will advise Jacksonville and Memphis of results of comparison.

(4) Will return lifts to Memphis Division, upon completion of examination for return to Nashville, Tennessee, Police.

EXPEDITIOUS HANDLING REQUESTED AS CASE BEING HANDLED AS "SPECIAL."

10/19/71

Airtel

TO: DIRECTOR, FBI
ATTENTION: IDENTIFICATION DIVISION,
LATENT FINGERPRINT SECTION

FROM: SAC, MEMPHIS (164-76) (P)

SUBJECT: GEORGE HALLORY GIFFE, JR.,
(DECEASED):

b6
b7C

[REDACTED]
Mrs. GEORGE M. GIFFE, JR., aka -
VICTIM (DECEASED)
CAA - HIJACKING; KIDNAPING

OO: JACKSONVILLE

Re Jacksonville airtel to Bureau, Attention:
Identification Division dated 10/7/71 and report of
SA [REDACTED] 10/14/71, at Memphis.

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landed in Jacksonville, Florida, same date.

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(1) Will determine if enclosed lifts, taken from
1970 Cadillac, owned by subject GIFFE, are of value.

- ③ - Bureau (Encls. 3) (RM)
- 2 - Jacksonville (164-103)
- 2 - Memphis

PHT:tjm
(7)

ME 164-76

(2) If prints are of value, will compare same with major case prints of GEORGE MALLORY GIFFE, JR., [redacted] and Mrs. GEORGE M. GIFFE, JR., previously submitted by Jacksonville Division with re airtel.

b6
b7C

(3) Will advise Jacksonville and Memphis of results of comparison.

(4) Will return lifts to Memphis Division, upon completion of examination for return to Nashville, Tennessee, Police.

EXPEDITIOUS HANDLING REQUESTED AS CASE BEING HANDLED AS "SPECIAL."

UNITED STATES GOVERNMENT

Memorandum

TO : DIRECTOR, FBI
(ATTN. LATENT FINGERPRINT SECTION)

DATE: 10/15/71

FROM: SAC, JACKSONVILLE (164-103) (P)

SUBJECT: GEORGE MALLORY GIFFE, JR. (deceased);

MRS. GEORGE M. GIFFE, JR., aka. -
VICTIM (deceased)
CRIME ABOARD AIRCRAFT - HIJACKING;
KIDNAPING
(OO: JK)

PC-H.2213

The following evidence, being forwarded to the FBI Laboratory via Air Express, was recovered from the crime scene, Hawk Commander Aircraft, registration number 9058N, on 10/4/71 by SA's [redacted] and Investigator [redacted] Homicide Detail, Office of the Sheriff, Jacksonville, Fla.:

- 1) 3 metal drinking cups
- 2) 1 package of "Guildware, Crystal Line" disposable plastic cups containing 20 unused cups
- 3) 2 packages of "AMCUP" insulated foam cups;
1 package contains 13 unused cups and the other package contains 7 unused cups
- 4) 3 empty Hamms beer cans, capacity 16 ounce each
- 5) 1 empty 4/5 of a quart bottle of Chavis Regal brand whiskey. Cap is fastened in order to preserve remaining contents.

Request of Latent Fingerprint Section

The Latent Fingerprint Section is requested to process the above items for latent fingerprints and if any prints are found, make comparison with prints of persons named in title of this communication.

- 3 - Bureau
(1 - Package)
2 - Jacksonville
JWB:ppb
(5)

OCT 18 1971

SEVEN
FBI
JAN 1972

Buy U.S. Savings Bonds Regularly on the Payroll Savings Plan

b6
b7C

EXP. PROC.

EXP.

Ans 11-5-71

164-2042

164-43356
10/20/71
JWB:ppb



JK 164-103

Request of FBI Laboratory

The Chemical Section of the FBI Laboratory is requested, if possible to determine remaining contents in Chavis Regal bottle.

The above evidence should be returned to Jacksonville upon completion of the FBI Laboratory examination.

November 4, 1971

Honorable Stuart Symington
United States Senate
Washington, D. C. 20510

My dear Senator:

I have received your communication of October 30th, with enclosures, concerning [redacted] of Columbia, Missouri.

I readily understand the reason which prompted your constituent's letter and, while I would like to respond to the points he raised, the matter involving the hijacking of a chartered aircraft to Jacksonville, Florida, on October 4th is currently the subject of court action. On November 1st U. S. District Judge Gerald B. Tjoflat, Middle District of Florida, Jacksonville, Florida, issued an order prohibiting all Government Agents and employees, including the FBI, from making any statements regarding the events set out in and surrounding the criminal indictment in this case.

Sincerely yours,

J. Edgar Hoover

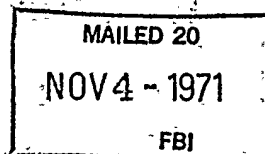
1 - St. Louis - Enclosures (3)

1 - Mr. M. A. Jones - Enclosures (3) (detached)

NOTE: Senator Symington is on Special Correspondents List and known to Director on first-name basis. Bufiles disclose no record identifiable with [redacted]

JPK:mls (6)

Tolson _____
Felt _____
Rosen _____
Mohr _____
Bishop _____
Miller, E.S. _____
Callahan _____
Casper _____
Conrad _____
Dalbey _____
Cleveland _____
Ponder _____
Bates _____
Tavel _____
Walters _____
Soyars _____
Tele. Room _____
Holmes _____
Gandy _____



MAIL ROOM ☐ TELETYPE UNIT ☐

14
October 30, 1971

United States Senate

b6
b7C

re: attached from [redacted] of Colum-
bia, Missouri. Would appreciate your comment.
Thank you.

Respectfully referred to:

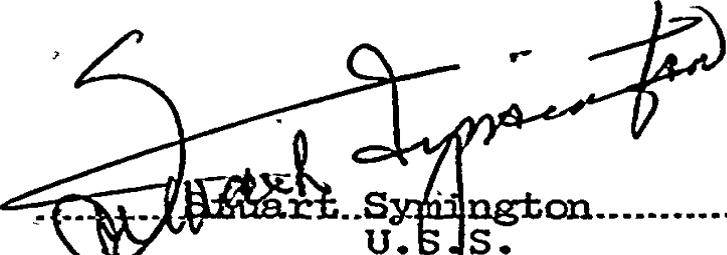
Chief, Congressional Liaison
Federal Bureau of Investigation
Washington, D. C.

George M. Giffie

Because of the desire of this office to be responsive to all inquiries and communications, your consideration of the attached is requested. Your findings and views, in duplicate form, ~~along with return of the unknown~~, will be appreciated by

one (sch)

SS:fs


Stuart Symington
U.S.S.
(D-Mo.)

Mr. Tolson
 Mr. Felt
 Mr. Rosen
 Mr. Mohr
 Mr. Bishop
 Mr. Miller, ES
 Mr. Callahan
 Mr. Casper
 Mr. Conrad
 Mr. Dalbey
 Mr. Cleveland
 Mr. Ponder
 Mr. Bates
 Mr. Tavel
 Mr. Walters
 Mr. Soyars
 Tele. Room
 Miss Holmes
 Miss Gandy

DD
Jan

Wamfeldt
Jan

geh 4-

EXP. PROC.

36 NOV 2 1974

B

38

REC-30

164-2042 *8/1/76*

17 NOV 8 1971

CORRESPONDENCE

121
11-4-71
TPK/mis
ack/fml
ack/fsc
ENCLOSURE

[REDACTED]

RECEIVED
COLUMBIA, MISSOURI 652 OCT 26 4 01 AM '71

[REDACTED]

b6
b7C

OFFICE OF
SENATOR
STUART SYMINGTON

The Honorable Stuart Symington
Senate Office Building
Washington, D.C. 20510

Dear Senator Symington:

It seems that the F.B.I. and other law enforcement agencies have established a policy of preventing certain crimes even at the expense of the victims. The clipping enclosed is a particularly vicious instance of disregard for the lives of those aboard the plane.

I consider that the F.B.I. is as responsible for the deaths of the pilot and the hijacker's wife as if they had fired the bullets. No one is fit to be director of a law enforcement agency who would tolerate such conduct or the policies I believe this conduct represents.

Sincerely yours,

[REDACTED]

SEK:ph

Identical letter sent to Senator Thomas F. Eagleton

Enclosure

164-2042-176
ENCLOSURE

Reports FBI Ignored Pilot's Plea For Refueling Of Hijacked Plane

WASHINGTON, Oct. 18 (AP) — Federal Bureau of Investigation agents repeatedly ignored a hijacked pilot's plea to let him refuel just before the affair ended in tragedy Oct. 4, the Washington Post reports today.

Moments before he was shot to death by his captor at Jacksonville, Fla., airport, pilot Brent Q. Downs is quoted as telling the FBI: "You are endangering lives by doing this. . . we request some fuel out here, please."

The newspaper gave the account of the hijacking in a hitherto secret transcript of the last radio transmission between the pilot and authorities.

Police said the hijacker, George M. Giffe Jr., 35 years old, took his estranged wife by force to the Nashville airport.

Australia's McMahon To Visit Nixon, Heath

CANBERRA, Australia, Oct. 18 (UPI)—Prime Minister William McMahon said yesterday he would visit Washington and London next month to meet President Richard M. Nixon and Prime Minister Edward Heath.

A spokesman said McMahon would discuss the international currency, situation, trade matters and Mr. Nixon's visits to China and Moscow, with the two leaders.

early that morning after leaving suicide notes. They said he and a friend, Bobby Wayne Wallace, drew pistols on the pilot and ordered him to fly his private twin-engine Aero-Com-mander to the Bahamas.

When the plane took off, the FBI was notified, and when the pilot said he would land in Jacksonville for fuel, agents were sent to the airport.

The transcript said Downs was told by the air control tower that a fuel truck would be standing by. Later, the newspaper said, an FBI agent in the control tower directed Downs to a different landing site and other agents surrounded the plane, exchanging gunfire with the hijacker.

Downs was shot in the back by the hijacker, who turned his 45-cal. automatic on his wife and finally himself. All three died, but the copilot and Wallace were not hurt.

Here is part of the transcript printed by the Post:

Pilot: "Where's the fuel truck?"

Tower: "This is the FBI. There will be no fuel. Repeat. There will be no fuel. There will be no starter which Downs had also requested to get the plane airborne again. Have you cut your engines?"

Pause.

Pilot: "Uh (gasp), look I don't think this fellow's kiddin' —I wish you'd get the fuel truck out here."

Tower: "58 November (plane code name) there will be no fuel. I repeat. There will be no fuel."

Pilot: "This is 58 November. You are endangering lives by doing this, and uh, we have no other choice but to go along and, uh, for the sake of some lives we request some fuel out here please."

The copilot, Randall Crump, then left the plane to talk to agents, the newspaper said; but was hustled into a waiting automobile.

Wallace, 32, also jumped out, and moments later, the FBI and the hijacker exchanged fire.

The transcript ended with a question from the control tower: "58 November?"

YEWS

SPREADERS & UPRIGHTS 2 for \$5.95

SAPPINGTON GARDEN SHOP
11530 Gravels VI 3-4700

Live the
"Good Life"

with a
Home Improvement Loan

164-2042-176

ENCLOSURE

FEDERAL BUREAU OF INVESTIGATION
COMMUNICATIONS SECTION

NOV 2 1971

TELETYPE

Mr. Tolson _____
Mr. Felt _____
Mr. Rosen _____
Mr. Mohr _____
Mr. Bishop _____
Mr. Miller, ES _____
Mr. Callahan _____
Mr. Casper _____
Mr. Conrad _____
Mr. Dalbey _____
Mr. Cleveland _____
Mr. Ponder _____
Mr. Bates _____
Mr. Tavel _____
Mr. Walters _____
Mr. Soyars _____
Tele. Room _____
Miss Holmes _____
Miss Gandy _____

NR002 JK PLAIN

3:01PM URGENT 11/2/71 TLF

TO DIRECTOR (164-2042)

MEMPHIS (164-76)

MIAMI

OKLAHOMA CITY

FROM JACKSONVILLE (164-103)

GEORGE MALLORY GIFFE, JR., AKA PAREN DECEASED PAREN; [REDACTED]

[REDACTED] SUSAN LAKICH GIFFE, AKA DASH VICTIM PAREN DECEASED PAREN; [REDACTED]

BRENT QUINTON DOWNS DASH VICTIM PAREN DECEASED PAREN; [REDACTED]

[REDACTED] DASH VICTIM, CAA DASH HIJACKING, INTIMIDATION OF CREW MEMBERS,
CARRYING A CONCEALED WEAPON; KIDNAPPING; FTCA: OO: JK.

RECENT CONFERENCE WITH USA, JACKSONVILLE, HAS DETERMINED DEFINITE
NEED FOR EITHER MOCK-UP OR DETAILED CHART OF HAWK COMMANDER AIR-
CRAFT WITH SEATING PLAN A PAREN STANDARD END PAREN. THIS EXHIBIT
WILL BE NECESSARY FOR CRIMINAL TRIAL IN THIS MATTER TO ADEQUATELY
DESCRIBE THE POSITIONS AND ACTIONS TAKEN BY THE OCCUPANTS OF THE
AIRCRAFT AT THE INITIATION, IN-FLIGHT, AND SUBSEQUENT LANDING AT
JACKSONVILLE, FLORIDA. THIS EXHIBIT WILL ALSO BE USED IN THE
SUBSEQUENT FTQA MATTER.

END PAGE ONE

60 NOV 5 1971

THREE
(Exhibits)

JK 164-103

PAGE TWO

OKLAHOMA CITY AT BETHANY, OKLAHOMA, WILL CONTACT AERO COMMANDER DIVISION, NORTH AMERICAN ROCKWELL, AND DETERMINE IF THEY HAVE A MOCK-UP OF THE INTERIOR OF THIS TYPE OF AIRCRAFT WHICH WOULD BE SUITABLE FOR COURT ROOM PRESENTATION AND IF SAME COULD BE MADE AVAILABLE ON A LOAN BASIS. ALSO, ENGINEER DRAWINGS, PROPERLY CERTIFIED, SHOULD BE OBTAINED FROM ENGINEERING SECTION OF NORTH AMERICAN ROCKWELL AND FORWARD SAME TO JACKSONVILLE SO THAT IT MAY BE REVIEWED BY USA PRIOR TO SUBMISSION TO EXHIBIT SECTION AT BUREAU.

MEMPHIS WILL NOTE THAT INFORMATION DEVELOPED AT NPRC, ST. LOUIS, REFLECTS THAT [REDACTED] HAD EDUCATIONAL CLAIM WITH VA REGIONAL OFFICE, NASHVILLE, DATED JULY TWENTYSEVENTH, SIXTYSIX, UNDER CLAIM NUMBER [REDACTED]

b6
b7C

MEMPHIS AT NASHVILLE WILL CONTACT VA REGIONAL OFFICE AND DETERMINE DETAILS OF [REDACTED] CLAIM.

MEMPHIS AT NASHVILLE WILL ALSO CONTACT FAA OFFICIALS AND DETERMINE PROGRESS IN DETERMINING INSURANCE COVERAGE OF AIRCRAFT IN EFFECT OF MORNING OF OCTOBER FOUR, SEVENTYONE.

END PAGE TWO

JK 164-103

PAGE THREE

FOR THE INFO OF MIAMI, ON OCTOBER FOUR, LAST, [REDACTED]
PETER J. MC BREEN AND ASSOCIATES, MIAMI, FLORIDA, TELEPHONE [REDACTED]
[REDACTED] INSURANCE ADJUSTERS FOR
UNIVERSAL AVIATION UNDERWRITERS, ATLANTA, GEORGIA, ADVISED THAT FIRM
HAD INSURANCE ON AIRCRAFT OWNED BY BIG BROTHER, INC., NASHVILLE,
TENNESSEE. HE ALSO ADVISED THAT HIS FIRM WOULD BE ADJUSTERS IN CERTAIN
INSURANCE COVERAGE RELATING TO COVERAGE OF EMPLOYEES OF THE NASHVILLE
COMPANY.

b6
b7c

MIAMI WILL PROMPTLY CONTACT [REDACTED] AND OBTAIN FROM HIM
DETAILS OF INSURANCE COVERAGE ON BOTH AIRCRAFT AND EMPLOYEES OF BIG
BROTHER AIRCRAFT, INC. WILL ALSO SECURE COPY OF INSURANCE REPORT
COVERING THIS INCIDENT AND DETERMINE IF ANY PAYMENTS HAVE BEEN
AUTHORIZED OR MADE IN THIS MATTER.

MIAMI WILL ALSO EXPEDITE SECURING OF INFORMATION FROM WEATHER
BUREAU AS PREVIOUSLY REQUESTED.

THIS MATTER MUST BE GIVEN PREFERRED HANDLING AND ALL LEADS
HANDLED ON EXPEDITE BASIS.

END

EJF FBI WASH DC



FEDERAL BUREAU OF INVESTIGATION
COMMUNICATIONS SECTION

NR009 ME PLAIN

11:18 PM NITEL 11-5-71

NOV 6 1971
DMB

TO DIRECTOR

TELETYPE

JACKSONVILLE (164-103)

FROM MEMPHIS (164-76)

ALSO KNOWN AS

GEORGE MALLORY GIFFE, JR., AKA (DECEASED);

SUSAN LAKICH GIFFE, AKA - VICTIM (DECEASED);

BRENT QUINTON DOWNS - VICTIM (DECEASED);

CRIME ABOARD AIRCRAFT

- VICTIM; GAA - HIJACKING; INTIMIDATION OF CREW

Federal Tort Claims Act

MEMBERS; CARRYING A CONCEALED WEAPON; KIDNAPING; FTCA

OFFICE OF ORIGIN

OO: JACKSONVILLE.

November

MEMPHIS NITEL SUMMARY, NOV. FIVE, INSTANT.

THIS DATE, [REDACTED] EMPLOYEE, WESTERN UNION

(WU), NASHVILLE, SAID TELEGRAPHIC MONEY ORDER RECEIPT

NUMBER M O D FOUR THREE THREE ONE ZERO ZERO NINE ONE WAS NOT

ISSUED BY WU AND STATED APPARENTLY SOMEONE OBTAINED A BLANK

FORM AVAILABLE TO PUBLIC AT VARIOUS WU AGENCIES AND

COMPLETED MESSAGE AS APPEARING ON MONEY ORDER RECEIPT IN

GIFFE'S POSSESSION. [REDACTED] STATED THERE IS NO WU OFFICE

IN BUENOS AIRES. SHE SAID NUMBER APPEARING ON WU ORDER

WOULD PROBABLY BE USED BY WU OFFICE, DICKSON, TENN. AND

THESE FORMS ARE AT CUSTOMER COUNTERS WHERE CUSTOMERS

FILL IN FORMSX AND PRESENT TO WU AGENT FOR PROCESSING.

END PAGE ONE

57 NOV 12 1971

Mr. Tolson _____
Mr. Felt _____
Mr. Rosen _____
Mr. Mohr _____
Mr. Bishop _____
Mr. Miller, ES _____
Mr. Callahan _____
Mr. Casper _____
Mr. Conrad _____
Mr. Dalbey _____
Mr. Cleveland _____
Mr. Ponder _____
Mr. Bates _____
Mr. Tavel _____
Mr. Walters _____
Mr. Soyars _____
Tele. Room _____
Miss Holmes _____
Miss Gandy _____

3
4

geh 11

REC-36

Tennessee

9 NOV 9 1971

204

PAGE TWO

MTO [] SAID THAT THE MONEY ORDER RECEIPT IN GIFFE'S POSSESSION WAS FICTITIOUS AS RECEIPT FOR SECOND COPY OF A THREE-COPY FORM AND SECOND COPY NEVER GIVEN TO CUSTOMER.

b6
b7C

[] VERIFIED THAT INITIALS ON RECEIPT ARE NOT THOSE OF THE WU AGENTS AT DICKSON. [] STATES WU USES ONE CASE TYPE LETTERS AND MESSAGE APPEARING ON MONEY ORDER RECEIPT IN GIFFE'S POSSESSION IS UPPER CASE LETTERS OF A TWO-CASE TYPEWRITER.

THIS DATE, [] CHIEF OF ADMINISTRATIVE Veterans Administration DIVISION, VA, STATED [] RECEIVED VARYING EDUCATIONAL ASSISTANCE GRANTS FROM NINETEEN SIXTYSIX THROUGH JUNE FOUR SEVENTYONE AND STATED MONIES PAID HIM DO NOT HAVE TO BE REPAID AS IT IS ASSISTANCE ONLY.

Federal Aviation Administration
ALL ~~FAA~~ PERSONNEL AT NASHVILLE METRO AIRPORT DID NOT OBSERVE ANY HIJACKING EVENTS AT BIG BROTHER AIRCRAFT AS DISTANCE FROM TOWER TO ^(BBA) HANGER WAS TOO FAR.

OFFICIALS, EATON CORPORATION, FORMERLY EATON, YALE AND TOWNE, GALLATIN, STATED SUBJECT [] EMPLOYED THERE ^{August} ~~AUG~~. SEVEN NINETEEN SIXTYONE THROUGH APRIL TWELVE,
END PAGE TWO

ME 164-76

PAGE THREE

NINETEEN SIXTYFIVE, WHEN [REDACTED] VOLUNTARILY SEPARATED
HIS EMPLOYMENT. [REDACTED] HAD AVERAGE WORK RECORD.

b6
b7C

INVESTIGATION, GALLATIN, TENN., DETERMINED KEY MANU-
FACTURING ^{Company} CO., ALLEGEDLY FORMER EMPLOYER OF SUBJECT [REDACTED]
IS CLOSED AND FORMER OWNER UNKNOWN.

[REDACTED] ASSOCIATE OF [REDACTED] NO LONGER
RESIDES IN GALLATIN AREA AND ATTEMPTS BEING MADE TO LOCATE
FORWARDING ADDRESS FOR INTERVIEWING HIM RE [REDACTED]

THIS CASE CONTINUOUSLY RECEIVING PREFERRED ATTENTION.

P. END.

PLS HOLD FOR ONE MORE TT



1-Office, 7133

**FEDERAL BUREAU OF INVESTIGATION
WASHINGTON, D. C. 20535**

To: **SAC, Memphis (164-76)**

Date: **October 29, 1971**

et
ELP
Re: **GEORGE MALLERY GIFFE, JR.
(DECEASED); [REDACTED]
MRS. GEORGE M. GIFFE, JR.,
aka - VICTIM (DECEASED)
CAA - HIJACKING; KIDNAPING
(OO: Jacksonville)**

edgar Hoover
John Edgar Hoover, Director

b6
b7C

FBI File No. **164-2043**
Lab. No. **PC-H2352 MT**

Examination requested by: **Jacksonville**
Reference: **Letter 10/19/71**

Examination requested: **Firearms**

Remarks:

**Specimens Q21 through Q28 are being returned under
separate cover by registered mail to the Memphis Division.**

ok

REC-22 164-2042-179

EX-112

**MAILED 2
29
FBI**

19 NOV 10 1971

**RECEIVED ADMINISTRATIVE
FBI**

Tolson _____
Felt _____
Rosen _____
Mohr _____
Bishop _____
Miller, E.S. _____
Callahan _____
Casper _____
Conrad _____
Dalbey _____
Cleveland _____
Ponder _____
Bates _____
Tavel _____
Walters _____
Soyars _____
Tele. Room _____
Holmes _____
Gandy _____

**Enclosures (2) (2 Lab report)
2-FBI, Jacksonville (164-103) Enclosures (3) (2 Lab report,
copy of incoming)**

NOV 15 1971
WGC
RSG
Wd9
SAP

ADMINISTRATIVE PAGE

MAIL ROOM ☐ TELETYPE UNIT ☐

REPORT
of theFEDERAL BUREAU OF INVESTIGATION
WASHINGTON, D. C. 20535

To: SAC, Memphis

Date: October 29, 1971

Re: GEORGE MALLERY GIFFE, JR. (DECEASED);

FBI File No. 164-2043

Lab. No. PC-A2352 MI

b6
b7c

MRS. GEORGE M. GIFFE, JR., aka -
VICTIM (DECEASED)
CAA - HIJACKING; KIDNAPING

Specimens received: 10/23/71

Q21 Undershorts
Q22 Shirt
Q23 Trousers
Q24 T shirt
Q25-Q26 Pair of socks
Q27-Q28 Pair of shoes

Result of examination:

The area around the hole having the appearance of a projectile entrance hole in the right back of the Q22 shirt, the area around the hole having the appearance of a projectile exit hole in the left front of the Q22 shirt and the areas around the corresponding holes in the Q24 T shirt were examined microscopically and processed chemically for the presence of gunpowder residues and none were found. The absence of such residues precludes the possibility of making any muzzle-to-garment distance determination.

The hole in the right leg of the Q23 trousers was examined microscopically and processed chemically for the presence of gunpowder residues and none were found. The absence of such residues precludes the possibility of making any muzzle-to-garment distance determination if this hole was produced by the passage of a projectile.

No holes or gunpowder residues were found in or on specimens Q21 and specimens Q25 through Q28.

Tolson _____
Felt _____
Rosen _____
Mohr _____
Bishop _____
Miller, E.S. _____
Callahan _____
Casper _____
Conrad _____
Dalbey _____
Cleveland _____
Ponder _____
Bates _____
Tavel _____
Walters _____
Soyars _____
Tele. Room _____
Holmes _____
Gandy _____

BDB:kmk (6)

MAIL ROOM ☐ TELETYPE UNIT ☐

REGORDING
10/27/71
prb

FEDERAL BUREAU OF INVESTIGATION
UNITED STATES DEPARTMENT OF JUSTICE

Laboratory Work Sheet

Expedite

Re GEORGE MALLERY GIFFE, JR. (DECEASED);
[REDACTED]

File # 164-2043-179
Lab. # PC-H2352 MT

MRS. GEORGE M. GIFFE, JR., aka -
VICTIM (DECEASED)
CAA - HIJACKING; KIDNAPING
(OO: Jacksonville)

b6
b7C

Examination requested by:

SAC, Memphis (164-76)

Let 10/19/71

Examination requested:

Firearms (G&A)-
(Gunpowder Tests)

Date received: 10/23/71 rm

Result of Examination:

Examination by [REDACTED]

*2 - FBI, Jacksonville (164-103) ENCLOSURES (3),
(2 LAB REPORT, COPY -
OF INCOMING)*

Specimens submitted for examination

Q21	Undershorts
Q22	Shirt
Q23	Trousers
Q24	7 Undershirt
Q25-Q26	Pair of socks
Q27-Q28	Pair of shoes

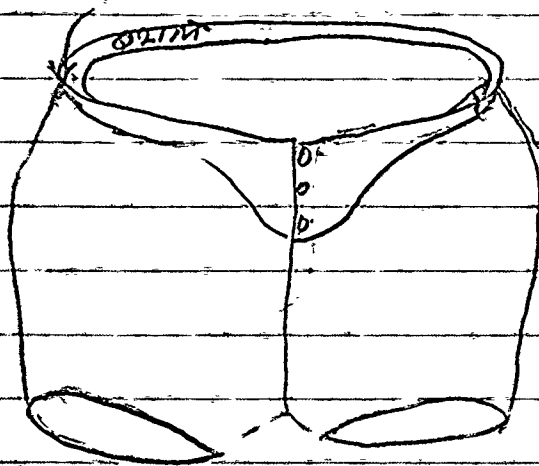
*Lab rpt.
10/29/71
BDB: Jank*

PC-H2352 MT

nhd on waist band

Q21 Undershirt

Plastic (light green)

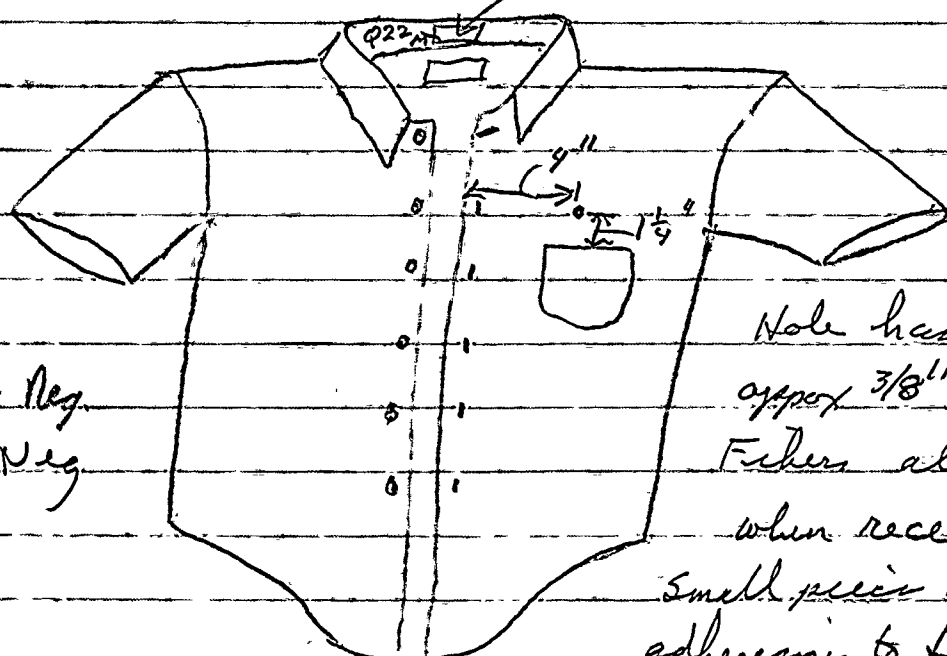


no holes found
Micro Neg
Chem Neg

nhd
Q22

Shirt (light blue checked)

Fleet Street



Micro - Neg
Chem - Neg

Hole has tear effect
approx 3/8" long
Fibers all pushed outwards
when received
Small piece of flesh
adhering to fibers on back
side of front hole

Q22 (Back)

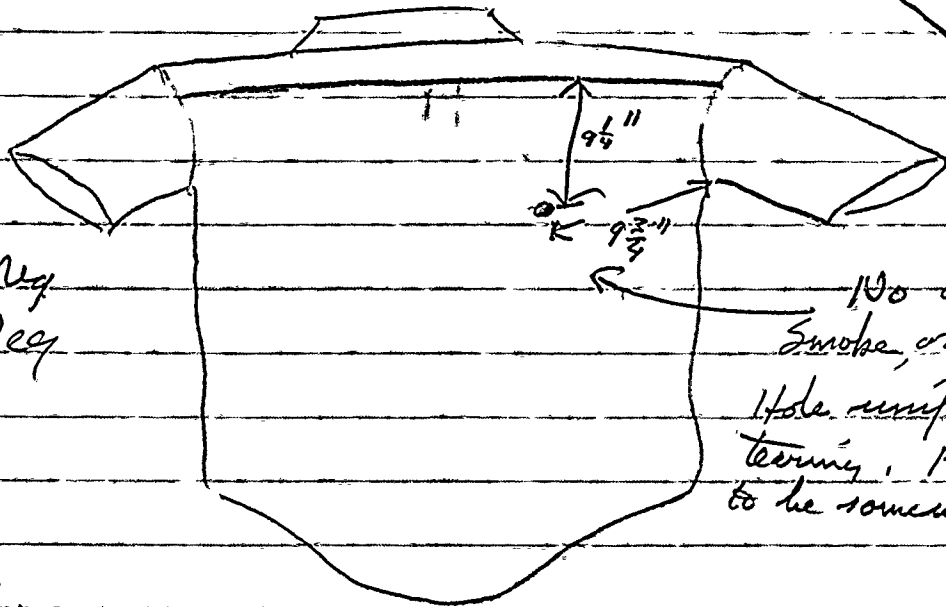
Front

Back

40° approx

Angles approx with shirt on hanger.

55° approx



micro - Neg
Chem - Neg

No discoloration,
Smoke, or singeing.
Hole uniform in
tearing. Fibers appear
to be somewhat pushed in.

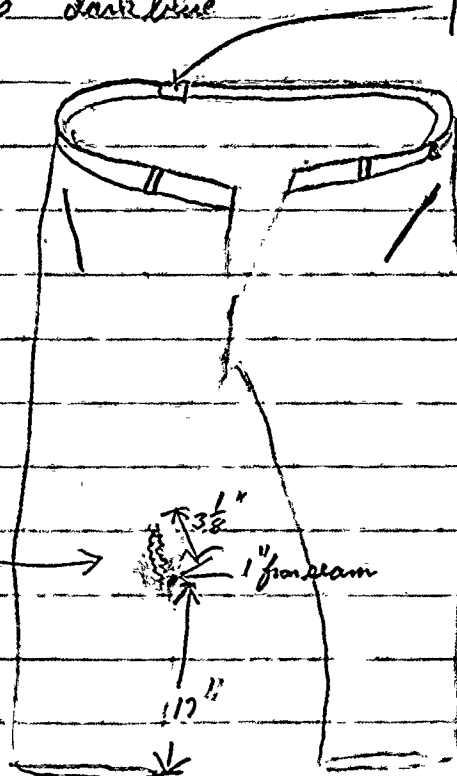
micro on torso

Q23 Trousers dark blue

NEVER
NEEDS
IRONING?

Q23
FORA

micro - Neg
Chem - Neg

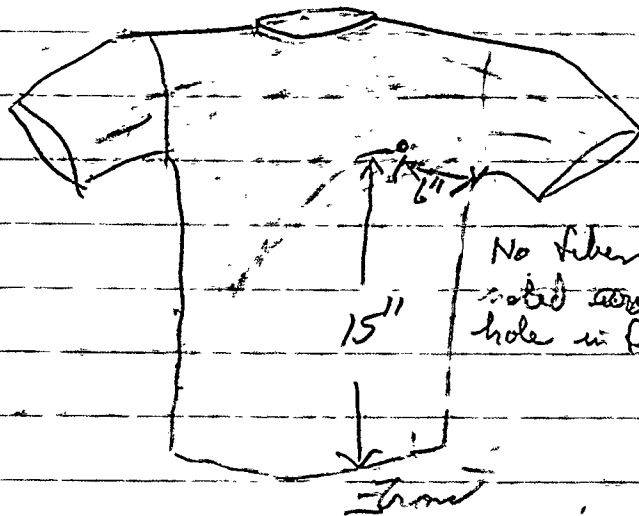


small tear on left
pocket (does not appear to
be bullet hole).

Tear & hole
Passage of
bullet

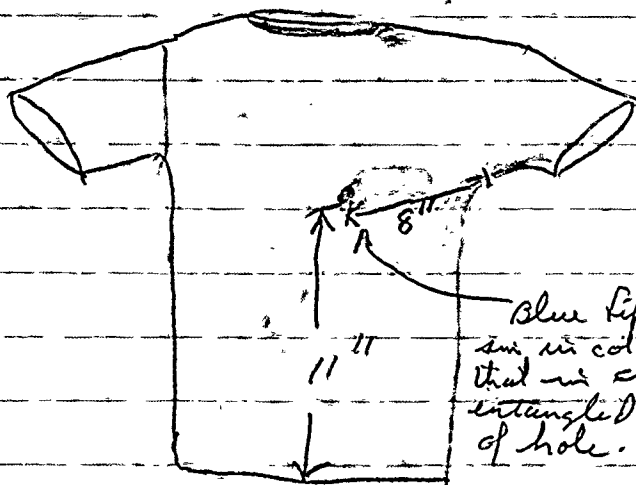
3 1/2"
1" seam
11 1/2"

hole in neck
 Q24 T-shirt (white.)



No fibers
 noted around
 hole in front

Micro - Neg
 Chem - Neg



Blue fibers
 seen in color &
 that in shirt per
 entangled in area
 of hole.

Micro - Neg
 Chem - Neg

Q25-Q26 Pair of socks (dark blue)

Mud Neg
Chem Neg

no holes found

whitewash

Q27-Q28

Pair of shoes

(black)

tie type

no holes found

Mud Neg.
Not run chem.

DIRECTOR, FBI
ATTENTION: FBI LABORATORY

SAC, MEMPHIS (164-76) (P)

GEORGE MALLERY GIFFE, JR. (DECEASED);

MRS. GEORGE M. GIFFE, JR., aka -
VICTIM (DECEASED)
CAA - HIJACKING; KIDNAPING

(OO: Jacksonville)

Re Memphis nitel to the Bureau and Jacksonville
dated 10/8/71 and Memphis nitel to the Bureau dated 10/14/71.

Transmitted herewith under separate cover via RM
are the following 6 items of clothing:

One pair of undershorts, light green in color

One short-sleeve sport shirt, plaid in color

One pair of blue pants

One white undershirt

One pair of blue socks

One pair of black shoes

The transmitted clothes were being worn by pilot
BRENT DOWNS at the time he was killed during the process of
instant hijacking in Jacksonville, Fla.

The Bureau has been provided with background in-
formation in this case where subjects, on 10/4/71, hijacked
a Big Brother Aircraft at Nashville, Tenn., and landed in
Jacksonville, Fla., same date.

③ - Bureau
(1 - package) (RM)
2 - Memphis
JER:bb/mrp
(5)

10/19/71

PHY.

Expedite

b6
b7C

5a7 MT
b

PC-H.2352

10/23

#14

Latent
10/20/71
K. S. H. H. H.

ME 164-76

REQUEST OF THE BUREAU:

The FBI Laboratory is requested to examine enclosed clothing in an effort to determine if there are any powder residues on said clothing, if possible to determine the direction of the projectiles (2) which hit BRENT DOWNS at a time when he was reportedly seated in the pilot's seat of his aircraft, and to conduct any other logical examination which might be pertinent to instant investigation.

The Laboratory is also requested to return clothing to the Memphis Division in order that same might be returned to the contributor.

FEDERAL BUREAU OF INVESTIGATION
COMMUNICATIONS SECTION

NOV 8 1971

TELETYPE

Mr. Tolson	_____
Mr. Felt	_____
Mr. Rosen	_____
Mr. Mohr	_____
Mr. Bishop	_____
Mr. Tavel	_____
Mr. Callahan	_____
Mr. Casper	_____
Mr. Conrad	_____
Mr. DeLoach	_____
Mr. Evans	_____
Mr. Gale	_____
Mr. Rosen	_____
Mr. Sullivan	_____
Mr. Tavel	_____
Mr. Walters	_____
Mr. Soyars	_____
Tele. Room	_____
Miss Holmes	_____
Miss Gandy	_____

NR002 AX PLAIN

6:32PM NITEL 11-8-71 CSW

TO: DIRECTOR

JACKSONVILLE

FROM: ALEXANDRIA (164-69)

GEORGE MALLORY GIFFE, JR., (DEASED); [REDACTED] MRS. [REDACTED]

GEORGE M. GIFFE, JR., AKA DASH VICTIM (DECEASED); BRENT DOWNS

DASH VICTIM (DECEASED); [REDACTED] DASH VICTIM; CAA DASH
HYJACKING; KIDNAPPING; FTCA. 00: JACKSONVILLE.

RE ALEXANDRIA TELETYPE TO JACKSONVILLE, NOV. THREE, LAST.

ON NOV. EIGHT, INSTANT, [REDACTED] USAF, IN-

TERVIEWED BY ALEXANDRIA DIVISION.

[REDACTED] AND SUBJECT GIFFE WERE GRADUATES AT PEABODY COLLEGE,
NASHVILLE, TENN., FROM SEPT. NINETEEN SIXTYTWO, TO SUMMER OF
NINETEEN SIXTYTHREE. FROM NINETEEN SIXTYFOUR TO MARCH, NINETEEN
SIXTYSEVEN, [REDACTED] WAS IN CONN., AND ILL., BUT MAINTAINED SOME
CONTACT WITH SUBJECT. FROM MARCH, NINETEEN SIXTYSEVEN, TO SUMMER OF
END PAGE ONE

REC-35 164-2042-180

EX-104

17 NOV 10 1971

51 NOV 12 1971

PAGE TWO

b6
b7c

NINETEEN SIXTYEIGHT, ALONG WITH SUBJECT AND [REDACTED]
[REDACTED] BAPTIST HOSPITAL, NASHVILLE, TENN., [REDACTED] WAS ON THE
GLOBAL V. REALTY CO. STAFF. SINCE NINETEEN SIXTYEIGHT, [REDACTED] HAS
HAD LIMITED CONTACT WITH SUBJECT (TWO PERSONAL MEETINGS AND ABOUT SIX
TELEPHONE CALLS). PRIOR TO MARCH, NINETEEN SIXTYSEVEN, [REDACTED] FELT
THE SUBJECT WAS AN UNDERSTANDING, TRUSTWORTHY, FAMILY MAN WHO WAS NOT
INCLINED TOWARD VIOLENCE. FROM THEIR ASSOCIATION IN THE REALTY CO.,
[REDACTED] DISCOVERED SUBJECT HAD CHANGED AND HE WANTED TO BE "MR."
PERSONALITY." HIS MORALS "WENT OUT THE WINDOW" AS HE OPENLY DEALT
WITH OTHER WOMEN; HE HAD AN APPETITE FOR MATERIAL THINGS; AND HE
SEEMED TO HAVE PARANOID TENDENCIES IN THAT HE WAS ORIENTED TOWARD
ONE THING, NAMELY POWER (MAKING HIMSELF NUMBER ONE IN NASHVILLE).
BECAUSE OF SUBJECT'S CHANGE IN PERSONALITY AFTER MARCH NINETEEN
SIXTYSEVEN, [REDACTED] FELT SUBJECT WAS CAPABLE OF SUICIDE AND AN ACT
OF VIOLENCE.

FD THREE ZERO TWOS TO FOLLOW. P.

END

FBI

Date: 10/13/71

Transmit the following in _____
(Type in plaintext or code)Via AIRTEL AIRMAIL
(Priority)

TO: DIRECTOR, FBI

FROM: SAC, JACKSONVILLE (164-103) (P)

SUBJ: GEORGE MALLERY GIFFE, JR. (DECEASED);
MRS. GEORGE M. GIFFE, JR., aka-VICTIM
 (DECEASED)
 CRIME ABOARD AIRCRAFT-HIJACKING;
 KIDNAPING

b6
b7C

Enclosed for the Bureau are six copies of an amended LHM suitable for dissemination covering the facts of the captioned matter at Jacksonville, Florida, on 10/4/71.

A copy of amended LHM is being furnished USA, Jacksonville.

1cc-TRM 5714
 CBH/ja
 10-22-71

REC plm

164-2042-181

RECORDED
 12 OCT 18 1971

2 - Bureau (Enc. 6)
 2 - Jacksonville
 (1- 120-288)
 FAB:cdh
 (4)

ENCLOSURE

1cc custom
 1cc LSA
 1cc State
 1cc INS
 1cc CIA
 1cc PAA
 1cc RACOM
 CBH/211
 11/2/71

Approved: _____

Special Agent in Charge

Sent _____

M

Per _____



UNITED STATES DEPARTMENT OF JUSTICE
FEDERAL BUREAU OF INVESTIGATION

In Reply, Please Refer to
File No. 164-103

Jacksonville, Florida
October 13, 1971

GEORGE MALLERY GIFFE, JR.,
(DECEASED);

b6
b7C

[REDACTED]
MRS. GEORGE M. GIFFE, JR.,
ALSO KNOWN AS - VICTIM
(DECEASED)
CRIME ABOARD AIRCRAFT-
HIJACKING; KIDNAPING

At approximately 4:05 AM, on October 4, 1971, the Jacksonville Office of the Federal Bureau of Investigation (FBI), was advised by the Federal Aviation Administration (FAA) Office at Jacksonville International Airport that a private aircraft, a Hawk Commander N9058N, enroute from Nashville, Tennessee to Atlanta, Georgia, had been hijacked while in flight and was scheduled to land at Jacksonville International Airport for the purpose of refueling before allegedly departing for a continued flight to the Bahamas.

Based upon the receipt of the above information, from the FAA, Special Agents of the FBI were immediately dispatched to Jacksonville International Airport with one Special Agent assigned to the FAA Control Tower while other Agent personnel remained on the ground.

The aircraft, upon its arrival at approximately 5:10 AM, was directed by the FAA Controller on duty in the Tower to proceed to the AirKaman area which is the loading and refueling area for general aviation aircraft.

The aircraft was directed to an isolated area in the vicinity of the AirKaman facility and made a 180 degree turn stopping with both engines still in operation.

At this time, two Special Agents of the FBI were parked in an FBI vehicle in the southeast corner of the end of the General Aviation Strip Number One with the front of the FBI car facing northwest toward the parked aircraft with the lights extinguished.

164-2042-181

In the event additional information of value is developed, your agency will be advised.

~~ENCLOSURE~~

GEORGE MALLERY GIFFE, JR. (DECEASED);

MRS. GEORGE M. GIFFE, JR., ALSO KNOWN AS-VICTIM (DECEASED)
CRIME ABOARD AIRCRAFT-HIJACKING; KIDNAPING

b6
b7c

The FBI Agent in the airport Control Tower, as well as the two Agents parked in the FBI vehicle to the rear of the air strip, observed Hawk Commander aircraft N9058N approach the southern end of the General Aviation Strip and also observed the aircraft make the 180 degree turn facing north and extinguishing all the landing lights with the exception of the aircraft's navigation lights and beacon.

The FBI Agent in the airport Control Tower was advised by the Special Agent Supervisor in the vehicle to the rear of the parked aircraft that as a delaying tactic, the pilot of the aircraft should be advised that no fuel or starter was available. The Agent in the Control Tower contacted the aircraft and advised the pilot to shut down his engines, and that no fuel would be available.

At this time, two additional Special Agents of the FBI arrived in the vicinity of the airport requesting instructions as to their final destination. They were directed by the Agent in the Control Tower to drive to a location south of the AirKaman Hangar which instructions were further supplemented by a radio transmission from the Supervising Special Agent on the scene advising them to remain in the vicinity of the southern end of this hangar. From this vantage point, which at the time was estimated to be approximately 250 yards to the northeast of the front of the aircraft, the two recently arrived FBI Agents could observe the aircraft.

The pilot of the subject aircraft communicated to the Agent in the Control Tower alleging that the men on board the aircraft had 12.5 pounds of plastic explosives on board and that he did not want anyone near the aircraft. This transmission was acknowledged by the Agent in the Control Tower and he further asked the pilot if his engines had been cut, to which he received a negative reply.

The information concerning the alleged presence of explosives aboard the aircraft and the request of the pilot not to allow anyone near the aircraft were transmitted by the Agent in the Control Tower to the Supervising Agent on the scene who again stated that no fuel would be provided to the aircraft.

GEORGE MALLERY GIFFE, JR. (DECEASED);

✓ MRS. GEORGE M. GIFFE, JR., ALSO KNOWN AS-VICTIM (DECEASED)
CRIME ABOARD AIRCRAFT-HIJACKING; KIDNAPING

b6
b7C

The FBI Agent in the Control Tower recontacted the subject aircraft and advised that in addition to the refusal to provide fuel, no starter would be available if the aircraft cut its engines. The pilot of the aircraft recontacted the FBI Agent in the Control Tower and stated that he did not think that the individual aboard the aircraft was kidding and again requested that a fuel truck be provided.

The above information was related to the Supervising Agent, at which time he directed that the pilot should be told that there was not any fuel. This message was relayed by the Agent in the Control Tower to the aircraft, at which time the pilot replied that lives were being endangered, that he had no other choice but to go along with the man and he again requested fuel. This message was also relayed to the Supervising Agent on the scene and he advised the Agent in the Control Tower to ask the pilot where the subject was in the aircraft and what activity was going on inside.

The Agent in the Control Tower recontacted the aircraft and asked the pilot what the status was of his passengers, to which the pilot replied they were "alright" and the Agent in the Control Tower asked him further if they were monitoring the conversation between him and the pilot, to which he made a positive reply. The Agent in the Control Tower asked if two passengers were aboard the aircraft but no reply was received to this question.

The Agent in the Control Tower asked the pilot as to what the present fuel status was aboard the aircraft, to which the pilot replied that he had approximately thirty minutes fuel remaining. This information was furnished to the Supervising Agent, at which time he directed that the pilot be advised that no fuel or starter would be provided and that the pilot of the aircraft could run his engines out. This information was communicated to the pilot of the aircraft by the Agent in the Control Tower and in addition, an announcement was made that the passengers of the aircraft were to depart the aircraft should they be listening.

The contents of the above message, which was transmitted to the pilot, were relayed to the Supervising Agent, at which time he stated that he considered this situation

GEORGE MALLERY GIFFE, JR. (DECEASED);

b6
b7C

MRS. GEORGE M. GIFFE, JR., ALSO KNOWN AS-VICTIM (DECEASED)
CRIME ABOARD AIRCRAFT-HIJACKING; KIDNAPING

to be a waiting game and that none of the Agents at the scene were to make any moves until he so ordered.

At this time, the Agent in the Control Tower observed the left engine of the aircraft stop and someone exited the aircraft and walked away from the aircraft in the direction of the Bureau vehicle where the Supervising Agent and another Agent were stationed. The Agent in the Control Tower asked the pilot as to the identity of the individual who deplaned from the aircraft and he replied that it was the copilot, which information was immediately communicated to the Supervising Agent on the ground. This individual, subsequently identified as [redacted] the copilot of the aircraft, advised the Supervising Agent that two men and one woman, in addition to the pilot, were still aboard the aircraft and one of the men had a gun. [redacted] stated at this time that he did not want to reboard the aircraft, as the pilot may be forced to fly out now.

The Agent Supervisor advised the Agent in the Control Tower that the pilot of the aircraft should be advised that his copilot was in the Bureau car and that he would not return to the aircraft. This message was relayed by the Agent in the Control Tower to the aircraft; however, no reply was made by the pilot nor were there any further transmissions received from this aircraft.

At about this time, one of the FBI Agents who was armed with a rifle with a telescopic sight, left the Bureau car in which he had been observing the scene with another Agent and moved to a closer position where he could better observe the aircraft. In this position, the Agent observed a large man, later identified as [redacted] white male, aged [redacted] at the rear of the aircraft moving toward the Agent Supervisor and the other FBI Agent. At this time, the Agent observing this man believed that he heard two muffled shots from within the aircraft and immediately returned to the FBI vehicle stating to the other Agent that he had heard the shots. Simultaneously, the Agent Supervisor directed these two Agents by radio to move to a point in front of the aircraft to block any possible exit. The Supervising Agent instructed the Agent who was with him to

GEORGE MALLERY GIFFE, JR. (DECEASED);

b6
b7c

✓ MRS. GEORGE M. GIFFE, JR., ALSO KNOWN AS-VICTIM (DECEASED)
CRIME ABOARD AIRCRAFT-HIJACKING; KIDNAPING.

shoot out the tire of the aircraft on the right side where the engine was still running. The Agent fired several shots at the tire and returned to the vicinity of where the subject, [REDACTED] was being guarded and then covered the Agent Supervisor as he moved around the right side of the aircraft toward the front while vocally announcing his identity and directing that the occupants should leave the aircraft.

One FBI Agent, who by this time had moved approximately 25 feet to the left front of the aircraft, observed a man sitting in the left front of the aircraft slightly move his head. As the Agent Supervisor continued to approach the front of the aircraft from the right front, two shots from within the aircraft were heard, and the Agent Supervisor crouched down and moved immediately to the left side of the aircraft where he shot out the left rear tire.

As the Agent Supervisor moved around the aircraft, he issued instructions to an Agent to disable the still running right engine which was done by firing two rounds from a rifle into the engine.

The Agent Supervisor and one other Agent then walked from the right side of the aircraft around the front to the left side door, at which time they instructed the Agent who was still in the vehicle to the front of the aircraft to move it slightly to the left side so that the headlights would shine directly into the interior of the aircraft.

The Agent Supervisor and the Agent with him opened the door of the aircraft and observed that the pilot, a white male, and a white female were all shot within the aircraft with only one individual, a white male passenger, still breathing slightly.

The Agent Supervisor immediately issued instructions to summon emergency equipment and medical services to the aircraft.

GEORGE MALLERY GIFFE, JR. (DECEASED);

b6
b7C

✓ MRS. GEORGE M. GIFFE, JR., ALSO KNOWN AS-VICTIM (DECEASED)
CRIME ABOARD AIRCRAFT-HIJACKING; KIDNAPING

The pilot was identified by the copilot as Brent Quinton Downs, 620 Pace Ferry Road, Nashville, Tennessee, a white male, aged 29, date of birth February 26, 1942.

The female was identified by papers in her handbag as Susan Lakich Giffe, 805 Continental, Nashville, Tennessee, a white female, born November 6, 1945.

The large white male on the right rear side of the aircraft was identified as George Mallery Giffe, Jr., 4501 Packard Drive, Nashville, Tennessee, white male, aged 30, born July 11, 1936.

George Giffe, who was believed to have uttered moans when the aircraft was first opened by FBI Agents, was removed by members of the Rescue Squad, Duval County, Florida Fire Department, but was dead upon arrival at the Duval Medical Center, Jacksonville, Florida.

Giffe was armed when found with an empty Walther automatic pistol and an additional fully loaded clip of ammunition was found nearby his body in the aircraft.

On October 4, 1971, an Assistant United States Attorney, who was present at the airport scene, authorized the filing of a complaint charging [redacted] with violation of Title 18, United States Code, Section 1201 and 2 as an aider and abettor in the kidnaping of Mrs. Susan L. Giffe from Nashville, Tennessee to Jacksonville, Florida.

This document contains neither recommendations nor conclusions of the FBI. It is the property of the FBI and is loaned to your agency; it and its contents are not to be distributed outside your agency.

FBI

Date: 10-28-71

Transmit the following in _____
(Type in plaintext or code)

Via AIRTEL AIRMAIL
(Priority)

TO: DIRECTOR, FBI
ATTN: EXHIBIT SECTION /64-2042

FROM: SAC, JACKSONVILLE (164-103)

SUBJECT: GEORGE MALLORY GIFFE, JR., aka.;
SUSAN LAKICH GIFFE, aka. - Victim (Deceased);
BRENT QUINTON DOWNS - Victim (Deceased);
_____ - Victim
CAA - HIJACKING, INTIMIDATION OF CREW MEMBERS,
CARRYING A CONCEALED WEAPON; KIDNAPPING; FTCA
(OO: JK)

4
11
3
Mh

b6
b7C

Enclosed for the Exhibit Section is an FD-302 with attached sketch of crime scene area, architects drawing of crime scene area as verified on 10-22-71 by Jacksonville Port Authority, and six labeled photographs of the crime scene area.

This case involves the initial kidnapping and hijacking of the aircraft at Nashville, Tennessee, and the subsequent landing and termination of the flight at Jacksonville International Airport, Jacksonville, Florida. The Memphis Division has secured the same information as Jacksonville, and it is being submitted separately by that office.

This matter consists of the kidnapping and aircraft hijacking criminal matter and then the Federal Tort Claim matter. At this time both cases are being handled in Jacksonville courts although the USA's office believes that the criminal case will be transferred to Nashville, Tennessee.

The USA's office has been consulted and agrees that charts or other means of graphic presentation will be required when these matters arise in USDC.

- ENCLOSURE
- ② - Bureau (Enc. 8)
1 - Memphis (164-76) (Info)
2 - Jacksonville
- REC-39 164-2042-182
EX-112
- OCT 30 1971

FAB-kgn
(5)

Approved: W. M. G. IV 151971
Special Agent in Charge

Sent _____

M Per _____

JK 164-103

The Bureau's Exhibit Section is requested to review the submitted material to determine the best suitable display of the information contained therein, and to advise Jacksonville of such determination so that the USA's office can be consulted prior to actual preparation.

November 9, 1971

EX-112

REC 25 164-2042-183

North Hollywood, California 91601

Dear [redacted]

b6
b7C

Your letter to the President was referred to this Bureau and received on November 4th.

I readily understand the reasons which prompted you to write and while I would like to respond to the points you raised, the matter involving the hijacking of a chartered aircraft to Jacksonville, Florida, on October 4th is currently the subject of court action. On November 1st U. S. District Judge Gerald B. Tjoflat, Middle District of Florida, Jacksonville, Florida, issued an order prohibiting all Government Agents and employees, including the FBI, from making any statements regarding the events set out in and surrounding the criminal indictment in this case to any persons not associated with the Federal Government.

Sincerely yours,
J. Edgar Hoover

MAILED 20
NOV 9 - 1971
FBI

- Tolson _____
- Felt _____
- Rosen _____
- Mohr _____
- Bishop _____
- Miller, E.S. _____
- Callahan _____
- Casper _____
- Conrad _____
- Dalbey _____
- Cleveland _____
- Ponder _____
- Bates _____
- Tavel _____
- Walters _____
- Soyars _____
- Tele. Room _____
- Holmes _____
- Gandy _____

NOTE: There is no record of correspondent in Bufiles.

JBT:djg (3)

61 NOV 18 1971

MAIL ROOM ☐ TELETYPE UNIT ☐

TEB/MSH
GEM/HRH
mcr
JBT

Mr. Tolson ☒
 Mr. Felt ☒
 Mr. Rosen ☒
 Mr. Mohr ☒
 Mr. Bishop ☒
 Mr. Miller, E.S. ☒
 Mr. Callahan ☒
 Mr. Casper ☒
 Mr. Conrad ☒
 Mr. Dalbey ☒
 Mr. Cleveland ☒
 Mr. Ponder ☒
 Mr. Bates ☒
 Mr. Tavel ☒
 Mr. Walters ☒ b6
 Mr. Soyars ☒ b7C
 Tele. Room ☒
 Miss Holmes ☒
 Miss Gandy ☒

Oct 19, 1971

Dear Mr. President:

I have just read in the paper the transcript of the conversation between the FBI. & the pilot of that hijacked plane where the man killed hi wife, the pilot & himself. Half a dozen times the pilot begged to be refueled- but the FBI refused & shot it out & finally caused the death of 2 innocent persons.

I'm a law abiding Republican, but how can you justify these useless slayings? What's with the FBI lately?? Are they immune to any restraints? Are the sacrosant? Where is ever their common sense?

As simple a person as I, am, could see that in this dangerous situation the sensible thing would be to let them refuel, take off & eventually you'd get the plane back & perhaps the abductor too. but no we have to fight it out & cover these murders-. I'n disgusted!!!!!!

It's enough to make you join the liberals.! God forbid!! Tension are high everywhere, but we certainly expect "this elite police force" to act intelligently & they certanly didn't in the instance. I know you are busy & have so many thing to contend with.

My prayers to you & may God hold you always in the palm of his hand.

copy:djk

ack/nml
11-9-71
JBT:dyg

nml

8/55

10
Justice
FED. BU. INV. Oct 19, 1970

g
Dear Mr. President:

I have just read in
the paper the transcript
of the conversation between
the FBI & the pilot
7 that he asked plane
when the man killed his
wife, the pilot & her-
self. Half a dozen times
the pilot begged to be
released - but the FBI

refused + shot at out
finally caused the death
of 2 innocent persons.

I'm a law abiding Republican,
but how can you justify
these senseless slayings?

What about the FBI

lately? Are they immune
to any restrictions? Are
they sacrosanct? Where
is even the common sense?

As simple a person as I, ~~am~~,
 could see that in this dangerous
 situation the sensible thing
 would be to let them re-
 fuel, take off & eventually
 you'd get the plane back
 & perhaps the abductor
 too. but no we have
 to fight it out & cover
 their murder. In

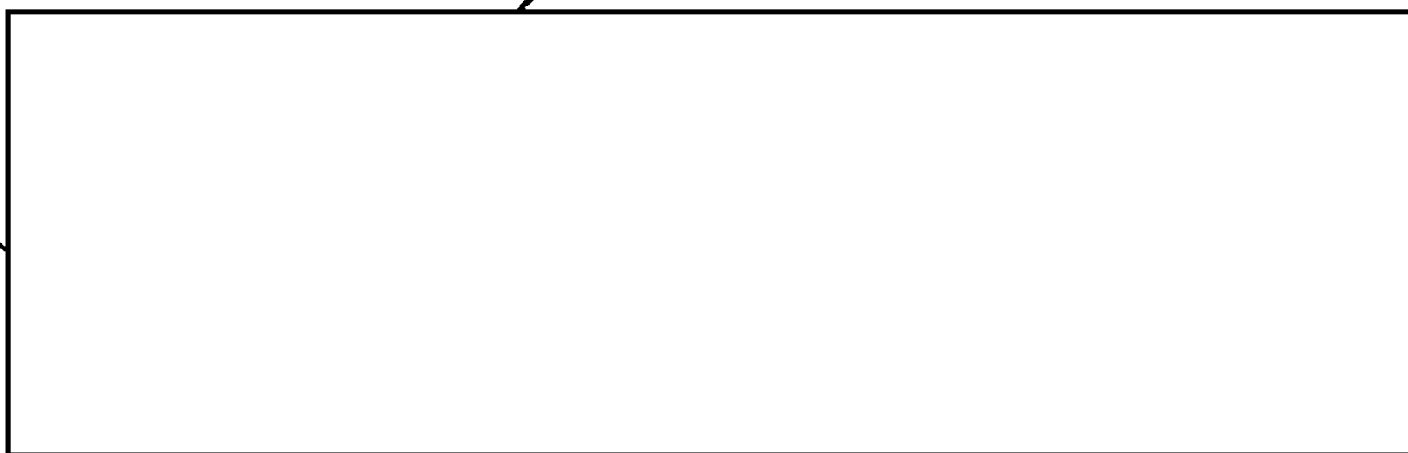
directed / / / / /

It's enough to make
you join the liberals!
God forbid!! Tensons
are byt everywhere, but
we certainly expect "their
elite families" to
act intelligently & they
certainly didn't in the
instance. I know you
are busy & have no

05
may thig to ~~contend~~ with

My prayer is you
& may God hold you
always in the palm of
his hand.

b6
b7C



Mr. Tolson _____
 Mr. Felt _____
 Mr. Rosen _____
 Mr. Mohr _____
 Mr. Bishop _____
 Mr. Miller, ES _____
 Mr. Callahan _____
 Mr. Casper _____
 Mr. Conrad _____
 Mr. Dalbey _____
 Mr. Cleveland _____
 Mr. Ponder _____
 Mr. Bates _____
 Mr. Tavel _____
 Mr. Walters _____
 Mr. Soyars _____
 Tele. Room _____
 Miss Holmes _____
 Miss Gandy _____

100
 G. Alm
 EXP. PROC.
 NOV 4 1971

GEORGE M.
 GIFFE

ack/mm
 11-9-71
 JBT:dyg

EX-112

REC 25 164-2042-183

5 NOV 11 1971

DEPT. OF JUSTICE
 CORRESPONDENCE

NR007 JK PLAIN

3:12PM URGENT 11/9/71 TLF

TO BUREAU (164-2042)

ATLANTA (164-241)

BALTIMORE (164-100)

OKLAHOMA CITY (164-54)

MEMPHIS (164-76)

FROM JACKSONVILLE (164-103) (P)

FEDERAL BUREAU OF INVESTIGATION
COMMUNICATIONS SECTION

NOV 9 1971

TELETYPE

Mr. Tolson	_____
Mr. Felt	_____
Mr. Rosen	_____
Mr. Mohr	_____
Mr. Bishop	_____
Mr. Miller, ES	_____
Mr. Callahan	_____
Mr. Casper	_____
Mr. Conrad	_____
Mr. Dalby	_____
Mr. Cleveland	_____
Mr. Rader	_____
Mr. Bates	_____
Mr. Threl	_____
Mr. Walter	_____
Mr. Soyars	_____
Tele. Room	_____
Miss Holmes	_____
Miss Gandy	_____

GEORGE MALLORY GIFFE, JR., AKA PAREN DECEASED PAREN; ET AL; CAA DASH
HIJACKING, INTIMIDATION OF CREW MEMBERS, CARRYING A CONCEALED
WEAPON; KIDNAPING; FTCA; OO: JK.

RE BALTIMORE AIRTEL TO JACKSONVILLE, NOVEMBER FIVE, LAST.

FOR THE INFORMATION OF OFFICES NOT RECEIVING ABOVE REFERENCED
AIRTEL, ON NOVEMBER ONE, LAST [REDACTED] OCEAN CITY, MARYLAND,
ADVISED DURING INTERVIEW THAT SUBJECT GIFFE ALWAYS CARRIED A PISTOL AND
ALWAYS TRAVELED BY CHARTERED PLANE RATHER THAN COMMERCIAL AS HE WAS
AFRAID OF BEING CAUGHT WITH THE GUN. [REDACTED] FURTHER STATED THAT
GIFFE WAS REPORTEDLY TRYING TO ARRANGE FINANCING THROUGH THE C AND S
BANK, ATLANTA, GEORGIA, AS WELL AS THE COMMERCE UNION BANK, NASHVILLE,
TENNESSEE.

EX-100 REC-36 164-2042-184 16 NOV 10 1971
[REDACTED] ADDITIONALLY STATED THAT HE HAD MET GEORGE GIFFE THROUGH
[REDACTED] AT A PARTY AT THE BAVARIAN APARTMENTS, NASHVILLE.

[REDACTED] INVOLVED IN TRUCKING BUSINESS IN NASHVILLE.

END PAGE ONE

55 NOV 17 1971

PAGE TWO

ATLANTA AT ATLANTA WILL THROUGH APPROPRIATE SOURCES [REDACTED] b7D
[REDACTED] DEVELOP ANY INFORMATION CONCERNING ATTEMPTS BY GIFFE TO SECURE
FINANCING IN THE PAST AND SECURE DETAILS.

BALTIMORE AT OCEAN CITY WILL RECONTACT [REDACTED] AND b6
DETERMINE SPECIFIC KNOWLEDGE HE HAS CONCERNING GIFFE'S USE b7C
OF CHARTERED AIRCRAFT IN THE PAST. COMPLETE DETAILS SHOULD BE
OBTAINED CONCERNING WHEN AND WHERE AS WELL AS THE POSSIBLE IDENTITY
OF THE CHARTERED AIRCRAFT COMPANY WILL BE OBTAINED. IF [REDACTED] NOT
SPECIFIC AS TO IDENTITY OF CHARTERED AIRCRAFT, HAVE HIM ATTEMPT TO
RECALL BETWEEN WHAT POINTS AND AT WHAT TIME GIFFE USED CHARTERED
AIRCRAFT SO THAT LEADS MAY BE SET OUT TO FURTHER IDENTIFY THE
COMPANY INVOLVED.

OKLAHOMA CITY AT OKLAHOMA CITY WILL FURNISH JACKSONVILLE WITH
BLUEPRINTS OF AIRCRAFT OBTAINED FROM NORTH AMERICAN ROCKWELL SO
THAT THEY MAY BE REVIEWED BY USA'S OFFICE TO DETERMINE WHETHER A MOCK-
UP WOULD BE MORE USEFUL RATHER THAN A COMPREHENSIVE CHART WHICH WOULD
BE UTILIZED DURING FUTURE COURT ACTIONS IN THIS MATTER.
MEMPHIS AT MEMPHIS IF NOT ALREADY HANDLED, WILL LOCATE AND INTERVIEW
[REDACTED] BAVARIAN APARTMENTS, NASHVILLE, FORMER ASSOCIATE OF
SUBJECT GIFFE, FOR ALL DETAILS RELATED TO THIS ASSOCIATION.

THE BUREAU HAS ADVISED THAT THIS MATTER SHOULD BE AFFORDED
CONTINUOUS AND PREFERRED TREATMENT. —

END

MRF FBI WA DC

UNITED STATES GOVERNMENT

Memorandum

TO : DIRECTOR, FBI (164-2402)

DATE: 11-2-71

FROM : SAC, JACKSONVILLE (164-103) (P)

SUBJECT: GEORGE MALLORY GIFFE, JR., AKA. (DECEASED);

[REDACTED]
SUSAN LAKICH GIFFE, AKA. - VICTIM (DECEASED);

BRENT QUINTON DOWNS - VICTIM (DECEASED)

[REDACTED] - VICTIM

CAA - HIJACKING, INTIMIDATION OF CREW MEMBERS,
CARRYING A CONCEALED WEAPON; KIDNAPPING;
FTCA

OO: JACKSONVILLE

b6
b7C

ReJK report of SA [REDACTED] dated 10-16-71
and Bulet (0-17) dated 10-21-71.

For the information of the Bureau, corrections noted
on the above-referenced Bulet have been made on original FD-302s
in Jacksonville files.

A review of investigative information and copies of
motions and petitions filed in captioned matter reflects that
the name of the firm involved is Big Brother, Incorporated,
whereas the name of the owner and operator of this firm is

[REDACTED]

EX-115
REC-60

164-2042-185

NOV 8 1971

- ② - Bureau
- 2 - Memphis (164-76)
- 2 - Jacksonville

FAB-kgn
(6)



NOV 16 1971

U.S. Savings Bonds Regularly on the Payroll Savings Plan

FEDERAL BUREAU OF INVESTIGATION
COMMUNICATIONS SECTION

NOV 9 1971

TELETYPE

Mr. Tolson	_____
Mr. Felt	_____
Mr. Rosen	_____
Mr. Mohr	_____
Mr. Bishop	_____
Mr. Miller, ES	_____
Mr. Callahan	_____
Mr. Casper	_____
Mr. Conrad	_____
Mr. Dalbey	_____
Mr. Cleveland	_____
Mr. Ponder	_____
Mr. Bates	_____
Mr. Tavel	_____
Mr. Walters	_____
Mr. Soyars	_____
Tele. Room	_____
Miss Holmes	_____
Miss Gandy	_____

NR009 JK PLAIN

8:20 PM NITEL 11-9-71 ALH

TO DIRECTOR (164-2402) *FD 217 to JK, OC + ME 11/12 JH*

OKLAHOMA CITY (164-54)

MEMPHIS (164-76)

FROM JACKSONVILLE (164-103) (P)

GEORGE MALLORY GIFFE, JR., AKA (DECEASED; ETAL. CAA DASH HIJACKING,
INTIMIDATION OF CREW MEMBERS, CARRYING A CONCEALED WEAPON; KIDNAPING;
FTC. OO: JACKSONVILLE.

CR

JACKSONVILLE DAILY SUMMARY DASH NOV. NINE, INSTANT.

INFORMATION DEVELOPED BY BALTIMORE DIVISION THROUGH INTERVIEW
WITH [REDACTED] OCEAN CITY, MARYLAND, INDICATED THAT GIFFE
WAS ATTEMPTING TO RAISE ONE MILLION TWO HUNDRED THOUSAND DOLLARS FOR
DREDGING OPERATION AND SAND PROCESSING PLANT ALTHOUGH OPINION WAS THAT
TWO HUNDRED THOUSAND DOLLARS WOULD HAVE BEEN SUFFICIENT. GIFFE COULD
HAVE USED MINERAL RIGHTS CONTRACT TO BORROW MONEY BUT INSTEAD BORROWED
MONEY FROM FRIENDS AND ISSUED STOCK BY WRITING ON PIECE OF PAPER.

[REDACTED] STATED GIFFE ALWAYS CARRIED PISTOL AND ALWAYS TRAVELED
BY CHARTER AIRPLANE RATHER THAN COMMERCIAL FOR FEAR OF BEING
CAUGHT WITH GUN.

EX-104 REC-18 164-2042-186

END PAGE ONE

57 NOV 16 1971

NOV 10 1971

JK 164-103

PAGE TWO

GIFFE SPENT BORROWED MONEY IN EXTRAVAGANT FASHION AND OBTAINED NEW CADILLAC WITHOUT FINANCIAL INVOLVEMENT. [REDACTED] FURTHER STATED THAT [REDACTED] NEGRO ASSOCIATE OF GIFFE'S REPORTEDLY PLANS TO CONTINUE MINING OPERATION IN THE FUTURE.

b6
b7C

LEADS SET OUT CONCERNING ABOVE INFORMATION FOR ATLANTA AND BALTIMORE TO CONDUCT ADDITIONAL INVESTIGATION CONCERNING GIFFE'S USE OF CHARTERED AIRCRAFT IN THE PAST AND HIS ALLEGED DEALINGS WITH CENTRAL AND SOUTHERN BANK, ATLANTA, GEORGIA.

CONTACTS WITH UNITED STATES ATTORNEY'S OFFICE, JACKSONVILLE NEGATIVE THIS DATE AS TO ANY ADDITIONAL INFORMATION IN THIS MATTER.H

CONTACT WITH FAA, HILLIARD, FLORIDA, INDICATED THAT [REDACTED] [REDACTED] SUPERVISOR ON DUTY AT FAA AIR TRAFFIC CONTROL CENTER MORNING OF OCTOBER FOUR LAST PRESENTLY ATTENDING FAA MANAGEMENT SCHOOL, CAMERON STATE COLLEGE, LAWTON, OKLAHOMA. [REDACTED] NOT EXPECTED TO RETURN TO JACKSONVILLE AREA UNTIL WEEK OF NOVEMBER FOURTEEN NEXT.

OKLAHOMA CITY AT LAWTON, OKLAHOMA, WILL LOCATE AND INTERVIEW [REDACTED] FAA, FOR COMPLETE DETAILS AS TO HIS KNOWLEDGE, ACTIONS AND ORDERS ON THE MORNING OF OCTOBER FOUR LAST.

SUTEL RESULTS WITH FD THREE ZERO TWOS FOLLOWING.

END

TMT FBI WA

November 4, 1971

164-2042-

Honorable William S. Broomfield
House of Representatives
Washington, D. C. 20515

My dear Congressman:

Your letter of October 23th, with enclosure, was referred to this Bureau by the Department of Justice.

I readily understand the reasons which prompted your inquiry and while I would like to furnish the information you requested, the matter involving the hijacking of a chartered aircraft to Jacksonville, Florida, October 4th is currently the subject of court proceedings. On November 1st U. S. District Judge Gerald R. Thompson, Middle District of Florida, Jacksonville, Florida, issued an order prohibiting all Government Agents and employees, including the FBI, from making any statements regarding the events set out in and surrounding the criminal indictment in this case.

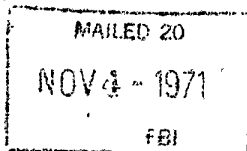
Sincerely yours,

J. Edgar Hoover

- 1 - Detroit - Enclosure
- 1 - Mr. M. A. Jones - Enclosures (2) (detached)

NOTE: Bureau discloses prior cordial relations with Congressman Broomfield regarding constituent matters.

JBT:djg (5)



51 NOV 7 1971

MAIL ROOM ☐ TELETYPE UNIT ☐

ORIGINAL FILED IN 62-103697-12

Handwritten notes and signatures: RS, RSG, CMB, HHA, JTB, and other initials.

WILLIAM S. BROOMFIELD
1ST DISTRICT, MICHIGAN

DISTRICT OFFICE ADDRESS:
1029 S. WASHINGTON
ROYAL OAK, MICHIGAN
PHONE: 541-2400

Congress of the United States
House of Representatives
Washington, D.C. 20515

FOREIGN AFFAIRS
COMMITTEE

WASHINGTON ADDRESS:
SUITE 2435
RAYBURN HOUSE OFFICE BUILDING
PHONE: 202-225-6135

October 25, 1971

Office of Congressional Liaison
Department of Justice
Washington, D. C.

Dear Sir:

The attached article appeared on the front page of the
DETROIT NEWS recently. It concerns an aircraft being
hijacked to fly to the Bahamas.

I would like to know why the FBI would not allow a small
aircraft to be refueled to go to the Bahamas when it would
allow an aircraft such as a 727 to be refueled to go to
Cuba. It does not seem proper that one man in a small
plane can be sacrificed.

Can you provide me with a full explanation of this matter.
Thank you.

Sincerely,

William S. Broomfield
Member of Congress

(R-MICH.)

WSB/nc
Enclosure

164-2042-

NOT RECORDED
102 NOV 12 1971

NOV 1 1971

CORRESPONDENCE
FEDERAL BUREAU OF INVESTIGATION

DEPARTMENT OF JUSTICE	
10	OCT 26 1971
R.A.O.	
DEPUTY ATTORNEY GENERAL	

ENCLOSURE

CRIMINAL GEN. CRIME SEC.

hijacked pilot pleads FBI in fatal hijack

WASHINGTON (AP) — FBI agents received a hijacked pilot's plea to let them refuel just before the affair ended in tragedy Oct. 4, the Washington Post reported today.

Moments before he was shot to death by his captor at Jacksonville, Fla., airport, pilot Brent Q. Downs is quoted as telling the FBI: "You are endangering lives by doing this. We request some fuel out here, please."

The newspaper gave the account of the hijacking in a hitherto secret transcript of the last radio transmission between the pilot and authorities.

Police said the hijacker, George M. Giffe Jr., 35, took his estranged wife by force to the Nashville airport early that morning after leaving suicide notes. They said he and a friend, Bobby Wayne Wallace, drew pistols on the pilot and ordered him to fly his private twin-engine Aero-Commander to the Bahamas.

When the plane took off, the FBI was notified, and when the pilot said he would land in Jacksonville for fuel, agents were sent to the airport.

The transcript said Downs was told by the air control tower that a fuel truck would be standing by. Later, the newspaper said, an FBI agent in the control tower directed Downs to a different landing site and others surrounded the plane, exchanging gunfire with the hijacker.

Downs was shot in the back by the hijacker, who turned his .45-caliber automatic on his wife and finally himself. All three died, but the co-pilot and Wallace were not hurt.

Here is part of the transcript printed by the Post:

Pilot: "Where's the fuel truck?"

Tower: "This is the FBI. There will be no fuel. Repeat. There will be no fuel. There will be no starter (which Downs had also requested to get the plane airborne again). Have you cut your engines?"

Pause

Pilot: "Uh (gasp) look I don't think this fellow's kidding — I wish you'd get the fuel truck out here."

Tower: "58 November (plane code name), there will be no fuel. I repeat. There will be no fuel."

Pilot: "This is 58 November. You are endangering lives by doing this, and uh, we have no other choice but to go along and, uh, for the sake of some lives we request some fuel out here please."

The co-pilot, Randall Crump, then left the plane to talk to agents, the newspaper said, but was hustled into a waiting car.

Wallace, 32, also jumped out, and moments later, THE FBI and the hijacker exchanged fire.

The transcript ends with a question from the control tower. "58 November?"

NOV 12 1971

ENCLOSURE

RECEIVED

F B I

Date: 11/5/71

Transmit the following in _____
(Type in plaintext or code)Via AIRTEL AIRMAIL
(Priority)

TO: DIRECTOR, FBI (164-2402)
FROM: SAC, JACKSONVILLE (164-103)
SUBJECT: GEORGE MALLORY GIFFE, JR., aka (DECEASED);
ET AL;
CAA-HIJACKING, INTIMIDATION OF CREW
MEMBERS, CARRYING A CONCEALED WEAPON;
KIDNAPING; FTCA

(OO: JK)

Enclosed for Oklahoma City is one copy
of certified meteorological data obtained by the
Miami Division from [] Aviation
Quality Control Officer, National Oceanographic
and Atmospheric Administration (NOAA), Miami,
Florida.

b6
b7C

The above data includes the following:

- 1) Observations from Freeport, Bahamas,
10/4/71, 7 AM - 8 AM EDT;
- 2) Observations from Weather Service Office,
West Palm Beach, Florida, 10/4/71, 5 AM
- 6 AM EDT;
- 3) Winds Aloft from Miami, Florida, 10/4/71;

② - Bureau
2 - Oklahoma City (164-54) (Enc. 1)
1 - Memphis (164-76) (Info)
2 - Jacksonville
FAB:pas
(7)

104

REC-32

164-2042-187

16 NOV 10 1971

Approved: *[Signature]*

Special Agent in Charge

Sent

M

Per

JK 164-103

4) Miami Radar Summary - 10/4/71,
4:40 AM EDT;

5) Terminal Forecast for Miami, 10/4/71;

6) Area forecast for Miami, Florida, 10/4/71.

On 10/29/71, [REDACTED]

[REDACTED] at the request of SA [REDACTED]
[REDACTED] contacted [REDACTED] Forecasting Officer,
Freeport, Bahamas, regarding the weather conditions
on 10/4/71 between 5 AM and 6 AM.

b6
b7C
b7D

[REDACTED] advised that the weather conditions
are not recorded between the hours of 11 PM and 7 AM
by his office. The only thing recorded is the amount
of rain fall. He could not, therefore, furnish a detailed
forecast for surface weather condition but advised
that there was no rain fall on the date and time in
question.

b6
b7C

Oklahoma City will make the enclosed weather
information available to FAA Officials.

FEDERAL BUREAU OF INVESTIGATION
COMMUNICATIONS SECTION

NOV 10 1971

TELETYPE

Mr. Tolson	_____
Mr. Felt	_____
Mr. Rosen	_____
Mr. Mohr	_____
Mr. Bishop	_____
Mr. Miller, ES	_____
Mr. Callahan	_____
Mr. Casper	_____
Mr. Conrad	_____
Mr. Dalbey	_____
Mr. Cleveland	_____
Mr. [unclear]	_____
Mr. Tavel	_____
Mr. Walters	_____
Mr. S. [unclear]	_____
Tele. Room	_____
Miss Holmes	_____
Miss Gandy	_____

b6
b7C

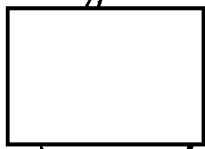
NR003 JK PLAIN

8:40 PM NITEL 11-1071 ALH

TO DIRECTOR (164-2042)
MEMPHIS (164-76)

if FROM JACKSONVILLE (164-103) (P) 2P
DUP

ALSO KNOWN AS CRIME ABOARD AIRCRAFT
GEORGE MALLORY GIFFE, JR., AKA (DECEASED); ETAL CAA - HIJACKING,
INTIMIDATION OF CREW MEMBERS, CARRYING A CONCEALED WEAPON; KIDNAPING;
Federal Tort Claims Act
FICA, 00: JACKSONVILLE.
Office of Origin:



November
JACKSONVILLE DAILY SUMMARY DASH NOV. TEN, INSTANT.

ON THIS DATE NEWSPAPER ARTICLE APPEARED FLORIDA TIMES UNION,
JACKSONVILLE, INDICATING THAT MOTION FOR EXTENSION OF TIME FILED BY
 ATTORNEYS WAS APPROVED BY JUDGE TJOFAT AT JACKSONVILLE NOV.
NINE, LAST. ARTICLE CONTINUED WITH DISCUSSION ATTRIBUTED SOURCE AS
JUDGE TJOFAT ON A CHANGE OF VENUE IN CRIMINAL CASE WHICH GOVERNMENT
WOULD OPPOSE.

EX-112 REC-36 164-2042-188

ABOVE ARTICLE BROUGHT TO ATTENTION OF JUDGE TJOFAT THIS DATE
AND HE EXPRESSED DEEP CONCERN AND IRRITATION INASMUCH AS HE NEVER
SIGNED AN ORDER NOR MADE ANY OF THE COMMENTS ATTRIBUTED TO HIM.
ACTUAL ORDER WAS SIGNED BY UNITED STATES MAGISTRATE JOSEPH W.
HATCHETT AT JACKSONVILLE WITHOUT COMMENT.

NOV 12 1971

END PAGE ONE

60 NOV 11 1971

JK 164-103

PAGE TWO

JUDGE TJOFLAT SUMMONED REPORTER FROM NEWSPAPER REQUIRING EXPLANATION AND POSSIBLE RETRACTION OF ARTICLE BE REQUESTED BY JUDGE TJOFLAT.

UNITED STATES ATTORNEY BRIGGS, JACKSONVILLE ADVISED OF AFFIDAVIT FILED BY ATTORNEY [REDACTED] IN NASHVILLE CONCERNING CONVERSATIONS WITH BRIGGS AND STATEMENTS CONCERNING UNITED STATES ATTORNEY ANDERSON.

b6
b7C

BRIGGS STATED COMMENTS LISTED BY [REDACTED] CONCERNING BRIGGS WERE ESSENTIALLY CORRECT AS WELL AS FACT HE DISCUSSED MATTER WITH UNITED STATES ATTORNEY ANDERSON, HOWEVER, COULD NOT EXPLAIN WHY ANDERSON MADE CONTENTS OF DISCUSSION KNOWN TO [REDACTED]

BRIGGS AT LOSS AS TO REASON FOR [REDACTED] FILING AFFIDAVIT OTHER THAN AS POSSIBLE INTENTION TO CAUSE FURTHER EMBARRASSMENT TO GOVERNMENT.

Federal Aviation Administration
JACKSONVILLE AWAITING ARRIVAL OF FAA PILOT ENROUTE FROM NASHVILLE AND ALL NECESSARY ARRANGEMENTS MADE TO MAKE AVAILABLE INFORMATION NEEDED TO EVALUATE FLIGHT AVAILABLE TO HIM.

END

TMT FBI WA

19-670
FEDERAL BUREAU OF INVESTIGATION
WASHINGTON, D. C. 20535

DATE: 11/8/71

Re: GEORGE MALLOREY GIFFY JR.
ET AL
CRIME ABOARD AIRCRAFT
KIDNAPPING

TO: SAC JACKSONVILLE

ATTN: SA

b6

b7C

CR

EVIDENCE

EVIDENCE

EVIDENCE

EVIDENCE

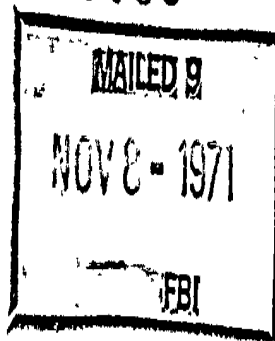
EVIDENCE

EVIDENCE

Invoice of Contents

ONE (1) EACH 7" REEL OF TAPE RECORDING.

715853



- ☐ Crypt.-Trans.
- ☐ Document
- ☐ P & C
- ☒ Radio Engineering
- ☐ LFPS

Special Instructions:

Mail Room: Show shipment date and registry number.

Shipping Room: Show shipment date; bill of lading number;

initial invoice; return to Section checked in block; after

initialing in block, invoice to be placed in administrative file.

REGISTERED AIRMAIL SPECIAL DELIVERY

55 NOV 16 1971

FBI File No.

164-2042-

NOV 10 1971

FEDERAL BUREAU OF INVESTIGATION
COMMUNICATIONS SECTION

NOV 10 1971

TELETYPE

Mr. Tolson	_____
Mr. Felt	_____
Mr. Rosen	_____
Mr. Mohr	_____
Mr. Bishop	_____
Mr. Miller, ES	_____
Mr. Callahan	_____
Mr. Casper	_____
Mr. Conrad	_____
Mr. Dalbey	_____
Mr. Cleveland	_____
Mr. Ponder	_____
Mr. Bates	_____
Mr. Tavel	_____
Mr. Walters	_____
Mr. Soyars	_____
Tele. Room	_____
Miss Holmes	_____
Miss Gandy	_____

NR 03 ME PLAIN

11:15 AM URGENT 11-10-71 SDC

TO DIRECTOR (164-2402) ²⁰⁴² FD-217 JK, ME

JACKSONVILLE (164-103)

FROM MEMPHIS (164-76) 1P

GEORGE MALLORY GIFFE, JR., AKA (DECEASED); ET AL. CAA - HIJACKING,
ETC. OO: JACKSONVILLE.

RE MEMPHIS NITEL SUMMARY TO BUREAU AND JACKSONVILLE NOV. NINE
LAST.

[REDACTED] EMPLOYEE, FAA, EXPECTS TO COMPLETE HIS INVESTI-
GATION AT NASHVILLE, TENN., IN A.M. HOURS THIS DATE.

[REDACTED] WILL ARRIVE JACKSONVILLE, FLA., ON EASTERN AIRLINES FLIGHT
TWO SEVEN THREE, ARRIVING AT THREE FIFTEEN P.M. THIS DATE.

IT IS REQUESTED AGENT MEET [REDACTED] AND AFFORD APPROPRIATE COURTESY.

P. END.

LMR FBI WA DC

EX-100

REC-18 / 64 - 2042 - 189

54 NOV 17 1971

6 NOV 11 1971

FEDERAL BUREAU OF INVESTIGATION
COMMUNICATIONS SECTION

NOV 10 1971

TELETYPE

NR006 ME PLAIN

8:10 PM NITEL 11-10-71 DMB

TO DIRECTOR

JACKSONVILLE (164-103)

FROM MEMPHIS (164-76)

Mr. Tolson_____
Mr. Felt_____
Mr. Rosen_____
Mr. Mohr_____
Mr. Bishop_____
Mr. Miller, ES_____
Mr. Callahan_____
Mr. Casper_____
Mr. Conrad_____
Mr. Dalbey_____
Mr. Cleveland_____
Mr. Ponder_____
Mr. Bates_____
Mr. Tavel_____
Mr. Walters_____
Mr. Soyars_____
Tele. Room_____
Miss Holmes_____
Miss Gandy_____

GEORGE MALLORY GIFFE, JR., AKA (DECEASED);

SUSAN LAKICH GIFFE, AKA - VICTIM (DECEASED);

BRENT QUINTON DOWNS - VICTIM (DECEASED);

- VICTIM; CAA - HIJACKING; INTIMIDATION OF CREW
MEMBERS; CARRYING A CONCEALED WEAPON; KIDNAPING; FTCA.

OO: JACKSONVILLE.

MEMPHIS NITEL SUMMARY , NOV. TENN, INSTANT.

US POSTAL INSPECTOR'S OFFICE, NASHVILLE,
THIS DATE, ADVISED AFTER MOVING OUT OF

LEFT NO FORWARDING ADDRESS.

USA CHARLES ANDERSON, MDT, NASHVILLE, ADVISED USDC
JUDGE FRANK GRAY, JR. HAS NOT AT THIS TIME RENDERED DECISION
ON PENDING MOTIONS IN USDC TO PERPETUATE EVIDENCE. ANDERSON
SAID ALL INFORMATION HAS BEEN FILED IN USDC BY GOVERNMENT
AND PLAINTIFF IN CIVIL ACTION AND STILL ANTICIPATES DECISION
THIS WEEK.

EX-112

REC- 36

END PAGE ONE

54 NOV 19 1971

3 NOV 12 1971

ME 164-76

PAGE TWO

[REDACTED] FAAA, NASHVILLE, STATED THIS DATE, CIVIL AERONAUTICS BOARD, ECONOMICS DIVISION, WASHINGTON, D.C. , SETS INSURANCE REQUIREMENTS ON ALL AIR TAXI OPERATORS.

b6
b7C

[REDACTED] SAID ALL AIR TAXI OPERATORS MUST REGISTER WITH CAB, AND THEY ARE REQUIRED TO INSURE ALL AIR TAXI OPERATORS WITH REGARD TO PASSENGER LIABILITY. [REDACTED] BELIEVES [REDACTED]

[REDACTED] WHO HAS INSURANCE FIRM IN NASHVILLE AND A RELATIVE OF [REDACTED] HANDLES INSURANCE COVERAGE FOR BBA.

[REDACTED] STATED HE ANTICIPATES NO INVESTIGATION BY FAA AT NASHVILLE TO SECURE THIS INFORMATION. HE SAID [REDACTED]

[REDACTED] FAA FLIGHT INSTRUCTOR, CONFERRED WITH CO-PILOT

[REDACTED] THIS DATE AND BELIEVES [REDACTED] MADE AVAILABLE TO [REDACTED]

COPIES OF PRE-FLIGHT- INFORMATION AT BBA WHICH WOULD ELIMINATE NEED FOR SUBPOENA TO OBTAIN SUCH INFORMATION.

RECORDS OF CHEATHAM COUNTY CIRCUIT COURT REVEALED

[REDACTED] ON FEB. NINETEEN SIXTYSEVEN INVOLVED

END PAGE TWO

7 ME 164-76

PAGE THREE

IN FOUR CASES REGARDING ILLEGAL SHOOTING OF ^DDEER AND WAS
FINED TOTAL OF ONE THOUSAND AND TWENTYFIVE DOLLARS AND CON-
FISCATION OF PICKUP TRUCK FOR SHOOTING THREE DEER AND
HUNTING AFTER SEASON CLOSED.

JACKSONVILLE DETERMINE WHAT INFORMATION [] OBTAINED
FROM [] RE PRE FLIGHT RECORDS. JACKSONVILLE NOTE FAA AT
NASHVILLE DOES NOT EXPECT TO INVESTIGATE INSURANCE COVERAGE
OF BBA AT THIS TIME AND JACKSONVILLE MAY DESIRE TO DISCUSS
WITH USA, MDF, OR SET FORTH LEAD AT CAB, WASHINGTON, D.C., TO
OBTAIN THIS INFORMATION.

b6
b7C

INVESTIGATION CONTI NUES TO LOCATE ADDITIONAL ASSOCIATES
OF SUBJECT []
THIS CASE RECEIVES PREFERRED AND CONTINUOUS ATTENTION.

P. END.

FEDERAL BUREAU OF INVESTIGATION
COMMUNICATIONS SECTION

Mr. Tolson	_____
Mr. Felt	_____
Mr. Rosen	_____
Mr. Mohr	_____
Mr. Bishop	_____
Mr. Miller, ES	_____
Mr. Callahan	_____
Mr. Casper	_____
Mr. Conrad	_____
Mr. Dalbey	_____
Mr. Cleveland	_____
Mr. Ponder	_____
Mr. Bates	_____
Mr. Tavel	_____
Mr. Walters	_____
Mr. Soyars	_____
Tele. Room	_____
Miss Holmes	_____
Miss Gandy	_____

b6
b7c

NR004 ME PLAIN

NOV 1 1971

TELETYPE

9:30 PM NITEL 11-11-71 DMB

TO DIRECTOR

JACKSONVILLE (164-103)

FROM MEMPHIS (164-76)

GEORGE MALLORY GIFFE, JR., AKA (DECEASED); [REDACTED]

[REDACTED] SUSAN LAKICH GIFFE, AKA - VICTIM (DECEASED); [REDACTED]

BRENT QUINTON DOWNS - VICTIM (DECEASED); [REDACTED]

[REDACTED] - VICTIM; CAA - HIJACKING; INTIMIDATION OF CREW
MEMBERS; CARRYING A CONCEALED WEAPON; KIDNAPING; FTCA.
OO: JACKSONVILLE.

MEMPHIS NITEL SUMMARY, NOV. ELEVEN, INSTANT.

THIS DATE, [REDACTED] PARTNER, SCHLOTT, NORMAN
AND CAIN, NASHVILLE, PREPARED DESIGN FOR AL HURT INTERNATIONAL
CLUB IN DECEMBER, NINETEEN SIXTYSEVEN.

LATER, [REDACTED] TRAVELED WITH SUBJECT GIFFE TO ATLANTA
IN JUNE, SIXTYEIGHT TO LOOK OVER LOCATION FOR NIGHT CLUB
THERE. SUBJECT GIFFE OWES HIS COMPANY ONE THOUSAND ONE
HUNDRED AND NINETYSIX DOLLARS. [REDACTED] DOES NOT KNOW [REDACTED]
[REDACTED] DAVIS WELDING COMPANY, NASHVILLE, STATED

END PAGE ONE NOV 11 1971

X-103

REC-18

2 NOV 12 1971

4-
11-
3-

10/12

6-10

ME 164-76

END PAGE TWO

HE EMPLOYED SUBJECT [] FROM SEPT. SIXTYSEVEN TO EARLY
PART OF SIXTYEIGHT AT INDUSTRIAL TECHNICAL SERVICE. []
DESCRIBED AS GOOD EMPLOYEE, HONEST , RELIABLE WITH NO CRIMINAL
TRAITS.

b6
b7C

[] FIRST MET SUBJECT
GIFFE FOUR YEARS AGO AT PARTY. SUBJECT GIFFE CONTACTED
HIM RE PURCHASE OF COPYING EQUIPMENT WHICH [] SELLS.

[] SAID
[] WAS GIFFE LAST ON SUNDAY AFTERNOON PRIOR TO HIJACKING
AND GIFFE CAME TO HIS APARTMENT TO GET A SHOTGUN WHICH
[] HAD BORROWED FROM SUBJECT GIFFE. AT THIS TIME, SUBJECT
GIFFE INQUIRED AS TO THE NAME OF A PILOT WHO HAD ATTENDED
PARTY OF SUBJECT GIFFE ON ONE OCCASION. [] COULD NOT
RECALL PILOT'S NAME AND GIFFE DID NOT STATE WHY HE WAS
INTERESTED IN PILOT.

[] STATED SUBJECT GIFFE WAS PRE-OCCUPIED BUT THAT
WAS NOT UNUSUAL FOR HIM TO BE THAT WAY. [] MET SUBJECT

[] AT PARTY AT SUBJECT GIFFE'S APARTMENT ABOUT TWO TO
END PAGE TWO

~~CORRECTION- SECOND PARA- FOURTH LINE IS NOT A NEW PARA~~

~~AND THE SECOND WORD SHOULD BE SAID~~

ME 164-76

PAGE THREE

THREE MONTHS PRIOR TO HIJACKING BUT KNOWS NOTHING ELSE
ABOUT

b6
b7C

THIS CASE RECEIVING PREFERRED AND CONTINUOUS
ATTENTION. P.END.

RMT FBI WA TKS

FEDERAL BUREAU OF INVESTIGATION
COMMUNICATIONS SECTION

NOV 9 1971

TELETYPE

Mr. Tolson	_____
Mr. Felt	_____
Mr. Rosen	_____
Mr. Mohr	_____
Mr. Bishop	_____
Mr. Miller, ES	_____
Mr. Callahan	_____
Mr. Casper	_____
Mr. Conrad	_____
Mr. Dalbey	_____
Mr. Cleveland	_____
Mr. Ponder	_____
Mr. Bates	_____
Mr. Tavel	_____
Mr. Walters	_____
Mr. Soyars	_____
Tele. Room	_____
Miss Holmes	_____
Miss Gandy	_____

NR003 ME PLAIN

8:34 PM NITEL 11-9-71 DMB

TO BUREAU (164-2402)

JACKSONVILLE (164-103)

FROM MEMPHIS (164-76)

GEORGE MALLORY GIFFE, JR., AKA (DECEASED); [REDACTED]

[REDACTED] SUSAN LAKICH GIFFE, AKA - VICTIM (DECEASED);

BRENT QUINTON DOWNS - VICTIM (DECEASED); [REDACTED]

[REDACTED] - VICTIM; CAA - HIJACKING; INTIMIDATION OF CREW

MEMBERS; CARRYING A CONCEALED WEAPON; KIDNAPING; FTCA.

OO: JACKSONVILLE.

RE JACKSONVILLE TEL BUREAU AND OTHER OFFICES, NOV..

NINE, INSTANT.

MEMPHIS NITEL SUMMARY, NOV. NINE, INSTANT.

USA CHARLES ANDERSON, MDT, NASHVILLE, THIS DATE, STATED

THERE IS NO DEFINITE DATE FOR ACTION OF FRANK GRAY, JR.,

USDC, MDT, NASHVILLE, REGARDING MOTIONS TO PERPETUATE EVI- 17 NOV 15 1971

DENCE BUT EXPECTS COURT TO REACH SOME DECISION THIS WEEK.

THIS DATE, [REDACTED] ATTORNEY FOR BBA,

FILED LETTER WITH ATTACHED AFFIDAVIT WITH USDC CLERK'S OFFICE,

NASHVILLE. THE LETTER REQUESTS THE COURT ATTACH THE

END PAGE ONE

60 NOV 18 1971

Galagher & Bates Memo
Bide: wke
11-10-71

ME 164-76

PAGE TWO

AFFIDAVIT TO HIS LETTER FILED ON NOV. FIFTEEN LAST. THE
AFFIDAVIT, SIGNED BY [REDACTED] STATES HE SPOKE WITH MR. BRIGGS,
USA, JACKSONVILLE, NOV. ONE LAST, AND ASKED THE PURPOSE OF
GOVERNMENT MOTION REGARDING DISCOVERY IN THE [REDACTED] CRIMINAL
CASE IN JACKSONVILLE AND BRIGGS REPLIED WAS "TO PREVENT
THE FEDERAL COURT IN NASHVILLE FROM REQUIRING DISCLOSURE
OF THE FBI'S FILE IN THIS CASE." [REDACTED] STATED HE THEN
TOLD BRIGGS THAT THIS WAS UNUSUAL PROCEDURE AND BRIGGS
REPORTEDLY SAID "WE WANT AN ORDERLY PROCEDURE WITH THE
CRIMINAL CASE FIRST." BRIGGS TOLD [REDACTED] THAT THE GOVERNMENT
HAD ENTERED INTO AGREEMENT WITH ATTORNEY FOR DEFENDANT
[REDACTED] TO PROVIDE THEM WITH FULL DISCOVERY. [REDACTED] STATES
[REDACTED] ATTORNEY, TOLD HIM ON NOV. ONE LAST
THAT USA, IN JACKSONVILLE, AGREED TO "OMNIBUS PROCEDURE"
GIVING HIM FULL DISCOVERY OF GOVERNMENT INFORMATION ABOUT
THE HIJACKING. [REDACTED] ALSO STATES IN AFFIDAVIT THAT USA
ANDERSON, ON SAME MONDAY AFTERNOON, STATED TO HIM THAT HE AND
MR. BRIGGS HAD DINNER ON THURSDAY NIGHT, OCT. TWENTYEIGHT
AND DISCUSSED HOW TO PREVENT DISCOVERY IN THE CIVIL CASE.
END PAGE TWO

b6
b7C

ME 164-76

PAGE THREE

JACKSONVILLE NOTE JIMMY LITTLE HAS BEEN INTERVIEWED
AND RESULTS PREVIOUSLY REPORTED.

CONTACT WITH REPRESENTATIVE OF TENNESSEE VILLAGE
APARTMENTS DETERMINED [REDACTED] MOVED OUT APARTMENTS
NOV. SEVENTY OWING ONE MONTH'S RENT.

b6
b7C

[REDACTED] ASSISTANT MANAGER, BRILEY MANOR
APARTMENTS, THIS DATE, STATED [REDACTED] MOVED IN APARTMENTS
THERE NOV. SEVENTY AND MOVED OUT DURING NIGHT TIME HOURS
JAN. SEVENTYONE OWING UNPAID RENT. EFFORTS CONTINUING
TO LOCATE [REDACTED] THROUGH POSTAL INSPECTOR'S OFFICE,
NASHVILLE.

[REDACTED] FA EMPLOYEE, IS CONTINUING HIS
INVESTIGATION IN NASHVILLE AREA AND EXPECTS TO CONTACT CO
PILOT [REDACTED] THIS DATE. [REDACTED] EXPECTS TO CONTINUE
INVESTIGATION. AT JACKSONVILLE, FLA. AND JACKSONVILLE
DIVISION WILL BE ADVISED OF TRAVEL ITINERARY OF [REDACTED] IN
ORDER THAT HE MAY BE EXTENDED PROPER COURTESIES.
END PAGE THREE

ME 164-76

PAGE FOUR

[REDACTED] MANAGER, GEORGETOWN APARTMENTS,
STATED SUBJECT GIFFE RESIDED THERE SEPT. SIXTYNINE
THROUGH OCT. SEVENTY. SHE STATED THAT SUBJECT GIFFE SLOW
IN PAYING RENT AND RECEIVED EXCESSIVE NOISE COMPLAINTS
RE SUBJECT GIFFE. MANAGEMENT TERMINATED LEASE AT EXPIRA-
TION OF ONE YEAR. [REDACTED] DESCRIBED SUBJECT GIFFE AS
UNSTABLE AND VERY NERVOUS. SUBJECT GIFFE FREQUENTLY TOLD
WARLOCK STORIES.

b6
b7C

BUREAU AND JACKSONVILLE WILL BE PROMPTLY ADVISED OF
RESULTS OF DECISION OF USDC, MDT, NASHVILLE, RE CIVIL
PROCEEDINGS.

THIS CASE CONTINUING TO RECEIVED PREFERRED AND CONTINUOUS
ATTENTION.

P.

END.

REC-UNIT

EX-104

REC-61

164-2042-193

November 10, 1971

Honorable Lawton ~~Chiles~~
United States Senator
Federal Building
Lakeland, Florida 33801

My dear Senator:

Your communication to [redacted] of the
Department of Justice concerning [redacted] has
been referred to this Bureau and was received on November 8th.

The matter to which your constituent refers involving
the hijacking of a chartered aircraft to Jacksonville, Florida,
on October 4th is currently the subject of court action. On
November 1st U. S. District Judge Gerald B. Tjoflat, Middle Dis-
trict of Florida, Jacksonville, Florida, issued an order
prohibiting all Government Agents and employees, including the
FBI, from making any statements regarding the events set out in
and surrounding the criminal indictment in this case.

As you requested, your enclosure is returned herewith.

MAILED 20

NOV 10 1971

FBI

Sincerely yours,

J. Edgar Hoover

Enclosure

- 1 - Jacksonville - Enclosures (2)
1 - Mr. M. A. Jones - Enclosures (2) (detached)

Tolson _____
Felt _____
Rosen _____
Mohr _____
Bishop _____
Miller, E.S. _____
Callahan _____
Casper _____
Conrad _____
Dalbey _____
Cleveland _____
Ponder _____
Bates _____
Tavel _____
Walters _____
Soyars _____
Tele. Room _____
Holmes _____
Gandy _____

NOTE: Bufiles disclose limited friendly relations and correspondence
with Senator Chiles (D-Florida). [redacted] not identifiable in
Bufiles.

JCW:nmi (7)

58 NOV 10 1971

MAIL ROOM ☐ TELETYPE UNIT ☐

b6
b7C

N.H.A.

T.B.
Jew

MJR

JCW

DATE: Nov 5 '71

To: FBI

From:

Chief, Legislative & Legal Section
Office of the Deputy Attorney General

Subject: Correspondence from:

Senator Lawton Chiles re

re Aircraft

high-jacking incident between
Nashville & Jacksonville

Responsibility

_____ Prepare reply for signature of Deputy Attorney General and forward to Room 4117, Main Justice

_____ Prepare reply for signature of Associate Deputy Attorney General, and forward to Room 4117, Main Justice

_____ Make an appropriate reply with a copy to Room 4117, Main Justice

X Please take appropriate action

GEORGE M. GIFFE

Department File No.:

Miscellaneous Information:

_____ Interim reply is being/has been made

X Incoming correspondence attached

_____ Please return attachment

_____ Please send copy of reply to Public Information

REC-61

NOV 12 1971

*ack to Sen Chiles (mail)
11/10/71
Jew: mmw
2 ENCLOSURE*

REC. UNIT

PLEASE REPLY TO:
FEDERAL BUILDING - LAKE LAND, FLA. 33801

United States Senate

Respectfully referred to:

b6
b7C

Chief
Legal and Legislative Section
Office of the Deputy Attorney-General
Department of Justice
Washington, D. C. 20530

Because of the desire of this office to be responsive to all inquiries and communications, your consideration of the attached is requested. Your findings and views, in duplicate form, along with return of the enclosure, will be appreciated by

*ack/nml
11-10-71
JCW: nmi*

Lawton Chiles
.....
U.S.S.

LAWTON CHILES

LC/mlc
Form #2

FBI
7/20/81 JCW

164-2042-193

ENCLOSURE

LAW OFFICES

COCOA, FLORIDA 32922

631-1550

b6
b7C

October 18, 1971

Honorable Lawton Chiles
United States Senator
Washington, D. C.

Dear Senator Chiles:

I would hope that you are familiar with the recent aircraft high-jacking incident that occurred between Nashville, Tennessee and Jacksonville, Florida. Upon landing at Jacksonville, Florida, the pilot in command elected to cooperate with the high-jackers so as not to jeopardize the safety of the crew and passengers. Contrary to assurances made by FAA personnel and airport personnel, the FBI refused to permit refueling over the pilot's strenuous pleading.

My partner and I are both pilots and have always firmly understood the basic principle that the pilot in command of the aircraft had the final decision as to the safety of his passengers and crew. Although I am sure that the efforts of the FBI were well-intentioned, I believe a fundamental policy and philosophy is involved here that should not be allowed to be repeated.

I strenuously urge you to use the authority of your office to investigate this matter thoroughly and obtain some assurance from the FBI that the ultimate decision on the manner in which a high-jacking is handled shall rest with the pilot in command of the aircraft.

Sincerely,

RTW/anr

164-2042-193
ENCLOSURE

2

FEDERAL BUREAU OF INVESTIGATION
COMMUNICATIONS SECTION

NR006 JK PLAIN

903 PM NITEL 11/2/71 TLF

NOV 2 1971

TELETYPE

TO DIRECTOR (164-2402)

MEMPHIS (164-76)

FROM JACKSONVILLE (164-103)

Mr. Tolson	_____
Mr. Felt	_____
Mr. Rosen	_____
Mr. Mohr	_____
Mr. Bishop	_____
Mr. Miller, ES	_____
Mr. Callahan	_____
Mr. Casper	_____
Mr. Conrad	_____
Mr. Dalbey	_____
Mr. Cleveland	_____
Mr. Ponder	_____
Mr. Bates	_____
Mr. Tavel	_____
Mr. Walters	_____
Mr. Searls	b6
Tele. Room	b7C
Miss Holmes	_____
Miss Gandy	_____

ALSO KNOWN AS
GEORGE MALLORY GIFFE, JR., AKA PAREN DECEASED PAREN;

SUSAN LAKICH GIFFE, AKA DASH VICTIM PAREN DECEASED PAREN;

BRENT QUINTON DOWNS DASH VICTIM PAREN DECEASED PAREN;

CRIME ABOARD AIRCRAFT
DASH VICTIM; GAA-DASH HIJACKING, INTIMIDATION OF CREW MEMBERS,

CARRYING A CONCEALED WEAPON; KIDNAPPING; Federal Tort Claims Act
TTGA; 00- JK.

Office of Origin: Jacksonville.

JACKSONVILLE DAILY SUMMARY, NOVEMBER TWO, NINETEEN SEVENTYONE.

U. S. ATTORNEY
ON THIS DATE, USA'S OFFICE, JACKSONVILLE, FURNISHED XEROX COPIES
U. S. DISTRICT COURT
OF PETITIONS AND MOTIONS FILED IN USDC, NASHVILLE, TENNESSEE.

DURING CONTACTS WITH USA, HE WAS ADVISED OF THE BUREAU'S OBSER-
VATIONS CONCERNING MAKING KNOWN THE FULL NAMES AND ADDRESSES OF BUREAU
AGENTS LISTED AS WITNESSES AND RECENTLY REQUESTED BY DEFENDENT'S
ATTORNEYS. USA ADVISED THAT HE WOULD DEFER MAKING THIS INFORMATION
AVAILABLE AT THIS TIME AND HE FELT THAT MAKING IT AVAILABLE THIRTY DAYS
PRIOR TO SCHEDULED TRIAL DATE WOULD BE SUFFICIENT.

END PAGE ONE

EX-104

REC-35

NOV 15 1971

164-2042-194

JK 164-103

PAGE TWO

USA, JACKSONVILLE ADVISED THAT DURING HIS CONTACT WITH USA NASHVILLE, REQUEST HAD BEEN MADE BY JACKSONVILLE FOR COPY OF CANNON OF ETHICS FOR BAR OF STATE OF TENNESSEE. CONSIDERATION BEING GIVEN BY BOTH USA'S OFFICES TO FILING COMPLAINT BEFORE TENNESSEE BAR ASSOCIATION CONCERNING STATEMENTS AND ACTIONS OF PLAINTIFF'S ATTORNEY [REDACTED]

b6
b7C

USA, JACKSONVILLE FURTHER ADVISED THAT USA NASHVILLE CONSIDERING BRINGING TO THE ATTENTION OF USDC, NASHVILLE, THE FACT THE TRANSCRIPT OF THE TAPES IN POSSESSION OF AND BEING DISTRIBUTED BY [REDACTED] DEFERRED FROM THE CONTENTS OF ACTUAL TAPES AND THEREFORE THIS MATERIAL SHOULD BE EXPUNGED FROM THE RECORD.

NEWSPAPER COVERAGE DURING MORNING OF NOV. TWO, INSTANT, RELATED SUBSTANTIAL CONTENT OF ORDER OF ^{U. S. DISTRICT JUDGE} ~~USDJ~~ TJOFLAT AND USA, JACKSONVILLE, FEELS THIS COVERAGE MOSTLY FAVORABLE; HOWEVER, AFTERNOON EDITION OF JACKSONVILLE JOURNAL CARRIED CAPTION QUOTE HIJACK EVIDENCE QUOTE SUPPRESSED UNQUOTE UNQUOTE. THIS ARTICLE CARRIED ^{Associated Press} ~~WP~~ HEADING ORIGINATING IN NASHVILLE, TENNESSEE. THE ARTICLE CONTAINS DEROGATORY STATEMENTS BY [REDACTED] CONCERNING HIS OBSERVATIONS OF COURT ORDER BY JUDGE TJOFLAT. USA HAS REQUESTED NASHVILLE TO FORWARD COPIES OF ALL NEWSPAPER ARTICLES CONCERNING [REDACTED] STATEMENTS TO JACKSONVILLE.

JACKSONVILLE AFFORDING THIS MATTER, PREFERRED ATTENTION AND CLOSE LIAISON BEING MAINTAINED WITH USA'S OFFICE.

END

FEDERAL BUREAU OF INVESTIGATION
COMMUNICATIONS SECTION

NOV 3 1971

TELETYPE

Mr. Tolson _____
Mr. Felt _____
Mr. Rosen _____
Mr. Mohr _____
Mr. Bishop _____
Mr. Miller, ES _____
Mr. Callahan _____
Mr. Casper _____
Mr. Conrad _____
Mr. Dalbey _____
Mr. Cleveland _____
Mr. Ponder _____
Mr. Bates _____
Mr. Tavel _____
Mr. Walters _____
Mr. Soyars _____
Tele. Room _____
Miss Holmes _____
Miss Gandy _____

NR007 CE PLAIN

5:5 PM NITEL 11-3-71 EIB

TO DIRECTOR AND JACKSONVILLE (164-103)

FROM CHARLOTTE (164-98)

GEORGE MALLORY GIFFE, JR., AKA. (DECEASED);

SUSAN LAKICH GIFFE, AKA. - VICTIM (DECEASED);

BRENT QUINTON DOWN - VICTIM (DECEASED);

- VICTIM, CAA - HIJACKING, INTIMIDATION OF CREW

MEMBERS, CARRYING A CONCEALED WEAPON; KIDNAPING; FTCA,

OO: JACKSONVILLE.

RE CHARLOTTE TELETYPE TO BUREAU DATED OCTOBER TWENTY-
NINE, LAST.

EMPLOYEE, WELLS AND WEST CONTRACTORS,

TEMPORARILY RESIDING

WHOSE PERMANENT ADDRESS IS

ADVISED HE FIRST MET

IN

NINETEEN SIXTY-NINE WHEN CAME TO WORK AT MAGNAVOX

END PAGE ONE.

NOV 15 1971

54 NOV 17 1971

PAGE TWO

CORPORATION, ANDREWS, N. C., AS A MAINTENANCE FOREMAN.

[REDACTED] WAS EMPLOYED UNDER [REDACTED] SUPERVISION. [REDACTED]

b6
b7C

WAS A "REAL NICE GUY" WHO WOULD GO OUT OF HIS WAY TO HELP YOU WITH PROBLEMS WITH THE MACHINERY. SEVERAL MONTHS LATER,

[REDACTED] WERE ALL FIRED BY MAGNAVOX FOR PUNCHING A TIME CARD INCORRECTLY. [REDACTED] EXPLAINED

THE COMPANY HAD NUMEROUS RULES INCLUDING ONE IN WHICH NO ONE WAS TO PUNCH SOMEONE ELSE IN OR OUT ON A TIME CARD. [REDACTED]

WAS IN CHARGE OF THE TIME CARDS. THE COMPANY ALLEGED THAT

[REDACTED] PUNCHED [REDACTED] IN AND OUT WHEN HE WAS NOT THERE.

[REDACTED] STATED HE ADMITTED TO THE COMPANY OFFICIALS HE DID PUNCH [REDACTED] IN BUT [REDACTED] WAS PRESENT AT THE COMPANY⁰

AS A RESULT OF THIS INCIDENT, ALL THREE WERE FIRED. [REDACTED]

STATED [REDACTED] WAS A VICTIM OF THE INCIDENT, AND HE HIMSELF HAD NO GUILTY CONSCIENCE OVER THE INCIDENT BECAUSE HE KNEW

FOR A FACT THAT [REDACTED] WAS AT THE COMPANY ON THE OCCASION HE PUNCHED HIM IN. IT WAS [REDACTED] OPINION THE COMPANY

END PAGE TWO

CE 164-98

PAGE THREE

DECIDED TO MAKE AN EXAMPLE OF THEM TO PREVENT THIS FROM
OCCURRING WITHIN THE PLANT.

HE STATED [] LEFT ANDREWS SHORTLY AFTER THIS
INCIDENT, SUPPOSEDLY TO RETURN TO NASHVILLE, TENNESSEE.

[] HAS HAD NO CONTACT WITH [] SINCE THAT TIME
AND HAS NEVER KNOWN [] TO BE INVOLVED IN ANY
ILLEGAL ACTIVITIES.

END

007 008

JTJ FBI WASH DC

b6
b7C

FEDERAL BUREAU OF INVESTIGATION
COMMUNICATIONS SECTION

NOV 2 1971

TELETYPE

NRO3 ME PLAIN

155PM URGENT 11-2-71 LLH

TO DIRECTOR

JACKSONVILLE (164-103)

FROM MEMPHIS (164-76) (2P)

Mr. Tolson	_____
Mr. Felt	_____
Mr. Rosen	_____
Mr. Mohr	_____
Mr. Bishop	_____
Mr. Miller, ES	_____
Mr. Callahan	_____
Mr. Casper	_____
Mr. Conrad	_____
Mr. Dalbey	_____
Mr. Cleveland	_____
Mr. Ponder	_____
Mr. Bates	_____
Mr. Tavel	_____
Mr. Walters	_____
Mr. Soyars	_____
Tele. Room	_____
Miss Holmes	b6
Miss Gandy	b7c

GEORGE MALLORY GIFFE, JR., AKA (DECEASED);

SUSAN LAKICH GIFFE, AKA - VICTIM (DECEASED); BRENT

QUINTON DOWNS - VICTIM (DECEASED);

VICTIM. CAA - HIJACKING : INTIMIDATION OF CREW MEMBERS; CARRING;
CONCEALED WEAPON ABOARD AIRCRAFT; KIDNAPING; FTCA. OO
JACKSONVILLE.

AT HEARING THIS AM, USDC, NASHVILLE, TENN., USDJ FRANK
GRAY, JR., STATED ORDER WOULD BE ENTERED IN CASE STYLED

ET AL, DOCKET NUMBER SIX THREE FOUR
EIGHT, DIRECTING THAT TRANSCRIPT OF FAA TAPES BE MADE A PART
OF THE RECORD EXPLAINING THAT THERE IS NO ELEMENT OF PRIVACY
IN SUCH RADIO TRANSMISSIONS. JUDGE GRAY STATED THAT HE WOULD
CONSIDER FURTHER THE PETITION TO PERPETUATE EVIDENCE AND AFTER

ADDITIONAL BRIEFS ARE FILED BY PLAINTIFFS AN ORDER WOULD BE NOV 15 1971
DRAFTED COVERING THIS QUESTION. JUDGE GRAY STATED " ON VENUE

END PAGE ONE

60 NOV

EX-104
REC-35 164-2042-196

me
11
fry

ME 164-76

PAGE TWO

THIS ACTION COULD BE BROUGHT IN THIS DISTRICT ACCORDING TO THE PLEADINGS. WHETHER OR NOT A MOTION FOR TRANSFER MIGHT LATER BE SUCCESSFULLY MADE IN BEYOND THE SCOPE OF MY COMPETENCE AT THIS TIME AND THEREFORE I CERTAINLY CANNOT HOLD THAT THIS COURT WOULD NOT HAVE A VENUE AND COULD NOT TRY SUCH AN ACTION."

ATTORNEY [REDACTED] ADVISED JUDGE GRAY THAT HE HAD IN HIS POSSESSION TAPES MADE BY HIM OF THE FAA TAPES AND INQUIRED IF HE HAD AUTHORITY TO RELEASE SUCH TAPES. JUDGE GRAY ADVISED

b6
b7C

[REDACTED] THAT HE COULD TAKE ANY ACTION HE DESIRED WITH REFERENCE TO THE TAPES. WLAC-TV MADE MOTION TO DISMISS PETITION TO INTERVENE WHICH WAS GRANTED.

COPY OF ORDER, WHEN PREPARED, WILL BE FORWARDED TO BUREAU AND JACKSONVILLE. P
END

TJT FBI WAHS DC CLR

FEDERAL BUREAU OF INVESTIGATION
COMMUNICATIONS SECTION

NOV 2 1971

TELETYPE

NR005 ME PLAIN

9:08 PM NITEL 11-2-71 DMB

TO DIRECTOR

JACKSONVILLE (164-103)

FROM MEMPHIS (164-76) (3P)

Mr. Tolson	_____
Mr. Felt	_____
Mr. Rosen	_____
Mr. Mohr	_____
Mr. Bishop	_____
Mr. Miller, ES	_____
Mr. Callahan	_____
Mr. Casper	_____
Mr. Conrad	_____
Mr. Gandy	_____
Mr. [unclear]	_____
Mr. [unclear]	_____
Mr. [unclear]	_____
Mr. [unclear]	_____
Tele. Room	_____
Miss Holmes	_____
Miss Gandy	_____

ALSO KNOWN AS
GEORGE MALLORY GIFFE, JR., AKA (DECEASED); [REDACTED]

[REDACTED] SUSAN LAKICH GIFFE, AKA - VICTIM (DECEASED); BRENT

QUINTON DOWNS - VICTIM (DECEASED); [REDACTED] -

CRIME ABOARD AIRCRAFT
VICTIM. GAA - HIJACKING, INTIMIDATION OF CREW MEMBERS,

CARRYING CONCEALED WEAPON ABOARD AIRCRAFT; KIDNAPING; FICA. Federal Tort Claims Act

OFFICE OF ORIGIN

00- JACKSONVILLE.

REFERENCE

November

RE- MEMPHIS TEL NOV. TWO. INSTANT.

U. S. DISTRICT JUDGE

Tennessee

USDC FRANK GRAY, JR., NASHVILLE, TENN, FURNISHED WITH

U. S. DISTRICT COURT

Florida

COPY OF ORDER ISSUED BY USDC, JACKSONVILLE, FLA. AT APPROXI-

MATEY EIGHT A. M. THIS DATE, AND THEREFORE CONTENTS KNOWN

TO HIM AT TIME OF HEARING IN INSTANT MATTER AT RE- [REDACTED] M.

JUDGE GRAY STATED IN OPEN COURT THAT TAPES OF RADIO TRANS-

MISSION BETWEEN TOWER AND AIRCRAFT WERE NOT PRIVILEGED AND

THEREFORE RULED THAT TRANSCRIPTION OF ANY OF TAPES TO BE

PART OF THE RECORD. FURTHER HE INFORMED ATTORNEY [REDACTED]

[REDACTED] THAT HE WAS AT LIBERTY TO TAKE ANY ACTION HE SAW

END PAGE ONE

60 NOV 18 1971

2 NOV 15 1971

EX-101
REC-35
REC-35 764-2042-197

ME 164-76

PAGE TWO

FIT WITH REGARD TO TAPES IN [REDACTED] POSSESSION. ON THE
QUESTION OF VENUE, JUDGE GRAY CITED PLEADINGS WHEREIN TITLE
TWENTYEIGHT, ^{Code} USC, SECTION ONE FOUR ZERO TWO (SMALL B) PRO-
VIDES ANY CIVIL ACTION ON A TORT CLAIM AGAINST THE U.S.
UNDER SUB SECTION (SMALL B) OF SECTION ONE THREE FIVE SIX
OF THIS TITLE MAY BE PROSECUTED ONLY IN THE JUDICIAL DISTRICT
WHERE THE PLAINTIFF RESIDES OR WHEREIN THE ACTION OR
COMMISSION COMPLAINED OF OCCURRED. JUDGE GRAY GRANTED
ATTORNEYS FOR PLAINTIFFS UNTIL ^{November} NOV. THREE NEXT TO FILE BRIEFS
ON PETITION TO PERPETUATE EVIDENCE AND ALLOWED ^{U. S. ATTORNEY} USA UNTIL
NOV. FIVE TO ANSWER FOR THE GOVERNMENT, STATING THAT AN
ORDER WOULD BE DRAFTED AS SOON THEREAFTER AS POSSIBLE.

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b7c

JUDGE GRAY NOTED THAT SEVERAL MATTERS HAD TO BE TAKEN
INTO CONSIDERATION IN THIS PETITION, AND ACCORDING TO USA,
NASHVILLE, INDICATED JUDGE GRAY WAS CONSIDERING EFFECT OF
JACKSONVILLE COURT ORDER ON PETITION TO PERPETUATE EVIDENCE.
USA, NASHVILLE, ADVISED HE DOES NOT FEEL THAT ACTION OF
JUDGE GRAY THIS DATE IS IN VIOLATION OF ORDER ISSUED BY
USDC, JACKSONVILLE, ADDING THAT USA, JACKSONVILLE, ALSO OF
END PAGE TWO

ME 164-76

PAGE THREE

SAME OPINION. USA, NASHVILLE, STATES HE PLANS TO EXERT
EVERY EFFORT TO DEFEAT PETITION TO PERPETUATE EVIDENCE SINCE
HE FEELS THIS IS THE MAIN ISSUE IN THIS MATTER. WLAC-TV,
NASHVILLE, BROADCASTED TAPE OF RADIO COMMUNICATIONS OF ^{Federal Aviation Administration} FAA AT
NOON THIS DATE. POSSIBLY TAPES FURNISHED TO STATION BY

b6
b7C

P. END.

GXC FBI WASDC.

FEDERAL BUREAU OF INVESTIGATION
COMMUNICATIONS SECTION

NOV 3 1971

TELETYPE

NR015 JK PLAIN
8:35 PM NITEL 11-3-71 ALH
TO DIRECTOR (164-2042)
MEMPHIS (164-76)
FROM JACKSONVILLE (164-103)

Mr. Tolson _____
Mr. Felt _____
Mr. Rosen _____
Mr. Mohr _____
Mr. Bishop _____
Mr. Miller, ES _____
Mr. Callahan _____
Mr. Casper _____
Mr. Conrad _____
Mr. Dalbey _____
Mr. Cleveland _____
Mr. Ponder _____
Mr. Tavel _____
Mr. Walters _____
Mr. Soyars _____
Tele. Room _____
Miss Holmes _____
Miss Gandy _____

b6
b7C

ALSO KNOWN AS CRIME ABOARD AIRCRAFT
GEORGE MALLORY GIFFE, JR., AKA (DECEASED); ETAL., CAA-HIJACKING,

INTIMIDATION OF CREW MEMBERS, CARRYING A CONCEALED WEAPON; KIDNAPING;
Federal Tort Claims Act
ETCA. OO: JK. Jacksonville
OFFICE OF ORIGIN

November
JACKSONVILLE DAILY SUMMARY, NOV. THREE, SEVENTYONE.

U. S. ATTORNEY

CONTACTS WITH USA'S OFFICE, JACKSONVILLE, THIS DATE, INDICATE
U. S. DISTRICT JUDGE
THAT USDJ GERALD B. TJOFLAT WILL NOT MAKE ANY PUBLIC COMMENTS CONCERNING
POSSIBILITY OF ISSUANCE OF CONFLICTING ORDER BY USDJ FRANK GRAY, NASH-
VILLE. JUDGE TJOFLAT NOT IN POSSESSION OF ANY WRITTEN STATEMENTS BY
JUDGE GRAY RELATING TO JUDGE GRAY'S RULING IN ^{U. S. DISTRICT COURT} ~~USDJ~~ ^{USDC}, NASHVILLE, NOV.
TWO, LAST. JUDGE TJOFLAT STILL INDICATES GREAT CONCERN OVER THE AFFECT
OF ANY ACTIONS BY JUDGE GRAY ADVERSELY INFLUENCING THE CRIMINAL ACTION
PRESENTLY PENDING.

END PAGE ONE

REC-18 164-2042-198

EX-112

16 NOV 15 1971

7450
57 NOV 22 1971

JK 164-103

PAGE TWO

U. S. ATTORNEY

ON THIS DATE, USA, JACKSONVILLE, ADVISED THAT CONTACTS WITH JUSTICE DEPARTMENT INDICATE THAT [REDACTED] PHONETIC, CIVIL DIVISION OF DEPARTMENT, ANTICIPATING TRAVEL TO NASHVILLE TO ASSIST IN THIS MATTER. AT THE PRESENT TIME, USA'S STRATEGY IS THAT IF JUDGE GRAY ISSUES ORDER GRANTING PLAINTIFFS AUTHORITY TO CIVILLY DEPOSE ALL PERSONS IN THE CIVIL ACTION AND ACCESS TO FILES, REPORTS, ETC., MOTION WILL BE MADE FOR A STAY TO THIS ORDER PENDING AN APPEAL. THIS REQUEST FOR A STAY WOULD BE FILED INITIALLY IN JUDGE GRAY'S COURT AND WOULD BE EXPECTED TO BE DENIED AS A MATTER OF COURSE. THE NEXT ACTION WOULD BE A MOTION TO STAY JUDGE GRAY'S ORDER TO BE FILED BEFORE THE FOURTH CIRCUIT COURT OF APPEALS. IF THE ACTION OF THE FOURTH CIRCUIT APPEALS WOULD BE ADVERSE TO THE GOVERNMENT'S POSITION IN THIS CASE CONSIDERATION WOULD BE GIVEN TO THE ENTRY OF A WRIT OF PROHIBITION AGAINST JUDGE GRAY TO BE BROUGHT BY THE OFFICE OF THE SOLICITOR GENERAL BEFORE THE U. S. SUPREME COURT.

b6
b7C

USA, JACKSONVILLE, IN CONTACT WITH BOTH USA'S OFFICE, NASHVILLE, AND JUSTICE DEPARTMENT CONCERNING THIS MATTER AND URGING COMPLETE PRESERVATION OF PENDING CRIMINAL ACTION AGAINST SUBSEQUENT CIVIL SUIT. THE ABOVE DESCRIBED LEGAL TACTICS ARE IN THE PLANNING STAGE AT THIS TIME, SUBJECT TO CHANGE AND REVIEW AS SITUATION DEVELOPS IN NASHVILLE.

END PAGE TWO

JK 164-103

PAGE THREE

MEMPHIS AND JACKSONVILLE WILL INSURE THAT EACH RESPECTIVE OFFICE IS AWARE OF THE CURRENT LEGAL ACTION AND CLOSE LIAISON IS MAINTAINED WITH THE RESPECTIVE USA'S OFFICE.

BUREAU WILL BE PROMPTLY INFORMED OF PERTINENT LEGAL DEVELOPMENTS IN THIS MATTER BY TEL OR TELEPHONE AS THE SITUATION DICTATES.

END

REW FBI WASH DC

HOLD: PLS FOR ONE TEL

FEDERAL BUREAU OF INVESTIGATION
COMMUNICATIONS SECTION

NOV 12 1971

TELETYPE

Mr. Tolson	_____
Mr. Felt	_____
Mr. Rosen	_____
Mr. Mohr	_____
Mr. Bishop	_____
Mr. Miller, ES	_____
Mr. Callahan	_____
Mr. Casper	_____
Mr. Conrad	_____
Mr. Dalbey	_____
Mr. Cleveland	_____
Mr. Ponder	_____
Mr. Bates	_____
Mr. Tavel	_____
Mr. Walters	_____
Mr. Soyars	_____
Tele. Room	_____
Miss Holmes	_____ b6
Miss Gandy	_____ b7C

NR017 JK PLAIN

9:18 PM NITEL 11-12-71 ALH

TO DIRECTOR (164-2042)

FROM JACKSONVILLE (164-103) (P)

GEORGE MALLORY GIFFE, JR., AKA, (DECEASED); ETAL. CAA - HIJACKING,
INTIMIDATION OF CREW MEMBERS, CARRYING A CONCEALED WEAPON; KIDNAPING;
FTCA. OO: JACKSONVILLE.

JACKSONVILLE DAILY SUMMARY DASH NOV. TWELVE, INSTANT.

ON INSTANT DATE FACTS CONTAINED IN ORDER OF JUDGE FRANK GRAY,
NASHVILLE, TENN., BROUGHT TO ATTENTION OF UNITED STATES ATTORNEY,
JACKSONVILLE. ASSISTANT UNITED STATES ATTORNEY [REDACTED] ADVISED
THAT HE HAD BEEN IN CONTACT WITH DEPARTMENTAL ATTORNEY [REDACTED]
[REDACTED] LATE AFTERNOON OF NOV. ELEVEN LAST AND [REDACTED] WAS AWARE OF
JUDGE GRAY'S ORDER HAVING BEEN CONTACTED BY U. S. A. ANDERSON, NASH-
VILLE, TENN.

REC-18/64-2042-199

[REDACTED] OPINION WAS THAT WHILE JUDGE GRAY HAD DENIED THE
PETITION TO PERPETUATE EVIDENCE HE HAD STILL LEFT THE DOOR OPEN
FOR PETITIONERS BY REQUESTING LISTING OF PROPOSED QUESTIONS TO BE
ASKED OF GOVERNMENT PERSONNEL.

END PAGE ONE

16 NOV 15 1971

50 NOV 22 1971

JK 164-103

PAGE TWO

[REDACTED] FURTHER STATED THAT IF JUDGE GRAY GRANTED PETITION AT
LATER DATE GOVERNMENT WOULD STILL MAKE APPEAL IN JUDGE GRAY'S COURT
AND IF DENIED SEEK RELIEF IN SIXTH CIRCUIT COURT OF APPEALS WHERE
IF AGAIN DENIED MATTER WOULD GO TO UNITED STATES SUPREME COURT.

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b7c

NEWS MEDIA COVERAGE OF JUDGE GRAY'S ORDER BASED ON UNITED
PRESS INTERNATIONAL RELEASE INDICATES THAT JUDGE GRAY DID ALLOW
PETITIONERS TO QUESTION GOVERNMENT PERSONNEL, HOWEVER, THIS STORY
QUALIFIES ITSELF BY STATING THAT JUDGE GRAY REQUESTED LIST OF
QUESTIONS. DUE TO MISLEADING LEAD SET OUT BY NEWS MEDIA, U. S.
ATTORNEY'S OFFICE, JACKSONVILLE HAS CONTACTED NEWS MEDIA AND OFFERED
TO MAKE COPY OF JUDGE GRAY'S ORDER AVAILABLE FOR THEIR OWN EVALUATION.

NO COMMENT AS TO SEPCIFICS OF ORDER MADE BY U. S. ATTORNEY'S
OFFICE OR JACKSONVILLE OFFICE TO MEWS MEDIA.

NO OTHER PERTINENT DEVELOPMENTS IN THIS CASE IN JACKSONVILLE ON
THIS DATE.

END

GXC FBI WASHDC

ACK FOR 016 017

FEDERAL BUREAU OF INVESTIGATION
COMMUNICATIONS SECTION

Mr. Tolson _____
Mr. Felt _____
Mr. Rosen _____
Mr. Mohr _____
Mr. Bishop _____
Mr. Miller, ES _____
Mr. Callahan _____
Mr. Casper _____
Mr. Conrad _____
Mr. DeLoach _____
Mr. Cleveland _____
Mr. [unclear] _____
Mr. Tavel _____
Mr. Walters _____
Mr. [unclear] _____
Tele. Room _____
Miss Holmes _____
Miss Gandy _____

b6
b7C

NR05 ME PLAIN

NOV 4 1971

8:20 PM NITEL 11-4-71 DMB

TELETYPE

TO DIRECTOR (164-2042)

JACKSONVILLE (164-103)

FROM MEMPHIS (164-76)

ALSO KNOWN AS

GEORGE MALLORY GIFFE, JR., AKA (DECEASED); [redacted]

[redacted] SUSAN LAKICH GIFFE, AKA - VICTIM (DECEASED);
[redacted] VICTIM (DECEASED)

BRENT QUINTON DOWNS - ~~XXXXXXXXXXXXXXXXXXXX~~

[redacted] - CRIME ABOARD AIRCRAFT - VICTIM; CAA - HIJACKING; INTIMIDATION OF CREW
Federal Tort Claims Act
MEMBERS; CARRYING A CONCEALED WEAPON; KIDNAPING; ETC.
OFFICE OF ORIGIN
OO: JACKSONVILLE.

SUPPLEMENTAL MEMPHIS NITEL SUMMARY, NOV. FOURS, INSTANT.

LATE P.M. THIS DATE, U. S. ATTORNEY Middle District of Tennessee
USA CHARLES ANDERSON, MDT, NASHVILLE,

ADVISED HIS OFFICE FILED IN U.S. DISTRICT COURT
CLERK'S OFFICE

A SUPPLEMENTAL BRIEF IN OPPOSITION TO PETITION TO PERPETUATE

EVIDENCE. ANDERSON ADVISED THAT REPRESENTATIVE OF U.S.

DEPARTMENT OF JUSTICE [redacted] ASSISTED HIM IN PRE-

PARATION OF THE SUPPLEMENTAL BRIEF WHICH WAS FILED IN

RESPONSE TO A LETTER TO THE COURT FROM COUNSEL AND PLAINTIFF
November 15 1971

DATED NOV. THREE, LAST.

END PAGE ONE

ENCLOSURE
F417
191971

See memo
Gallagher to Butte
11/16/71

dfm

ME 164-76

PAGE TWO

FILED IN USDC CLERK'S OFFICE THIS DATE IS SUPPLEMENTAL
LETTER DATED NOV. FOUR, INSTANT FILED BY PETITIONERS WHICH
INCLUDED THE ULTIMATE DISPOSITION OF CASE INVOLVING
REYNOLDS VS UNITED STATES CITATION ONE NINE TWO F. SECOND
NINE EIGHT SEVEN.

ON NOV/ THREE, A LETTER WAS RECEIVED AT USA'S OFFICE
IN LATE P.M. HOURS WHICH SERVED AS A SHORT BRIEF AND
AGRUMENT REGARDING THE SPECIFIC MATTERS OF DISCOVERY WHICH
PETITIONERS SEEK BASED ON PETITION. THE LETTER SETS FORTH
ITEMS BELIEVED TO BE RELEVANT TO DEVELOPMENT OF PETITIONERS
FEDERAL TORT CLAIMS LIABILITY CASE WHICH INCLUDES ALL
KNOWLEDGE OF EVENTS FROM ONE A.M. CENTRAL DAYLIGHT TIME
NOV. FOUR, LAST UNTIL CONCLUSION OF INCIDENT IN JACKSONVILLE,
FLORIDA AT ELEVEN A.M. EASTERN DAYLIGHT TIME ON OCT. FOUR,
LAST. THE LETTER ALSO STATES THAT ALL ACTIONS, DECISIONS,
COMMUNICATIONS AND KNOWLEDGE OF ALL ^{Federal Aviation Administration} FBI AND ~~FAA~~ PERSONNEL
AND ALL DEVELOPMENTS OF FACTS AS TO WHAT ACTUALLY HAPPENED
TO HIJACKED PLANE AND OCCUPANTS AT JACKSONVILLE AIRPORT
ARE PERTINENT AND SHOULD BE PERPETUATED.
END PAGE TWO

ME 164-76

PAGE THREE

THE LETTER ALSO STATES THAT TAPE RECORDINGS AND THE EXISTENCE OF ANY POLICIES, AGREEMENTS AND ARRANGEMENTS BETWEEN AGENCIES OF THE UNITED STATES FOR HANDLING HIJACKED AIRPLANES ARE RELEVANT AND SHOULD BE PERPETUATED.

ANDERSON STATED THAT NO DEFINITE DATE SET FOR HEARING ON PETITION TO PERPETUATE EVIDENCE BUT EXPECTS THIS WILL BE HANDLED SOMETIME NEXT WEEK, DATE UNKNOWN.

COPIES OF ABOVE LETTER AND BRIEF IN OPPOSITION TO PETITION TO PERPETUATE EVIDENCE WILL BE OBTAINED AND FORWARDED TO BUREAU AS SOON AS POSSIBLE.

THIS CASE CONTINUOUSLY RECEIVING PREFERRED ATTENTION.

P. END.

DCW

FBI WASH DC

"TREAT AS ORIGINAL"
IN THE UNITED STATES DISTRICT COURT

RECEIVED FOR ENTRY

1:45 P.M.

FOR THE MIDDLE DISTRICT OF TENNESSEE.

NASHVILLE DIVISION

NOV 3 - 1971

BRANDON LEVVIS, Clerk

BY Brandon Levvis D.C.

BIG BROTHER AIRCRAFT, INC.]

VS.]

CIVIL NO. 6322

JOHN A. VOLPE, ET AL.]

MRS. BRENT QUINTON DOWNS, ET AL.]

VS.]

CIVIL NO. 6348

UNITED STATES OF AMERICA]

ORDER

These actions came on for hearing November 2, 1971,
on all pending matters therein.

The first question considered by the court was
whether the document which purported to be a transcript of
certain tape recordings made of conversations between the
aircraft described in the pleadings and various Government
personnel on the ground, which transcript had been filed,
under seal, by the petitioners for in camera inspection by
the court, should be made a part of the record. The court
held that no element of privacy is involved in conversations
between pilots and ground personnel, Brown v. G.A.B., 324

ENCLOSURE
F.2d 523 (6th Cir. 1963), and directed that such transcript

be made a part of the record in Civil Action No. 6348.

The court next considered the application of petitioners in Civil Action No. 6348 to perpetuate testimony under Rules 27 and 34, Federal Rules of Civil Procedure. The court rejected the Government's first objection thereto, grounded on the assertion by the Government that the petitioners could not bring an action against the United States under the Federal Tort Claims Act and, therefore, that there was no "... matter that may be cognizable in any court of the United States," as required by the provisions of Rule 27, supra. In so holding, the court did not rule that relief could be granted in any prospective Federal Tort Claims action, but noted that such a determination must await the filing of such action and its testing by a motion to dismiss or other pleading.

The court also held that, since all of the petitioners, according to the pleadings, reside in this District, venue could be properly laid herein under the provisions of 28 U.S.C. § 1402.

Having held that this is a proper forum for determination of petitioners' application to perpetuate testimony, the court stated that, although it was of the opinion that some relief should be granted, the variety of the matters sought to be discovered would require separate and detailed consideration, and the petition would, therefore, be taken under advisement.

In response to an inquiry by counsel for petitioners, the court held that taped re-recordings of the original recordings referred to, supra, were of the same non-private character as the transcript heretofore discussed and could, therefore, be made public if desired. At this point, counsel for WLAC-TV, Incorporated, moved to dismiss the intervening petitions heretofore filed by it herein, which motion was GRANTED.

The court took under advisement the petitions to

intervene heretofore filed by WSM, Incorporated; however, after the close of the hearing, such intervenor filed notices of dismissal herein, which notices are treated as motions to dismiss without prejudice and are GRANTED.

It is so ORDERED.


UNITED STATES DISTRICT JUDGE

15/1
"TREAT AS ORIGINAL"
NO. 71-212-C-7
WESLEY R. THIES
CLERK
BOBBY WAYNE WALLACE

O R D E R

This matter came on for hearing on the motion of the United States for a protective order pursuant to Rule 16(e), Federal Rules of Criminal Procedure. The United States Attorney and counsel for defendant were present. On the representations of counsel, the Court finds as follows:

1. On or about October 4, 1971, Brent Quinton Downs, SHIRAN H. Giffe, and George M. Giffe were killed at Jacksonville International Airport by gunshot wounds while aboard an aircraft Hawk Commander N9058N which was allegedly hijacked from Nashville, Tennessee, to Jacksonville, Florida. This is the aircraft and flight described in the indictment in this case.

2. On October 6, 1971, the Federal Aviation Agency (F.A.A.) air traffic control tapes containing radio communications between said aircraft and personnel of F.A.A. and the Federal Bureau of Investigation (F.B.I.) were impounded by an order issued by the United States District Court for the Middle District of Tennessee. (See Exhibit A, Temporary Restraining Order entered by the United States District Court, Middle District of Tennessee, Nashville Division, in Civil Action No. 6322 on October 6, 1971; and Exhibit B, Permanent Injunction issued by the same court on October 8, 1971.) Thereafter, persons not party to this case disseminated to others transcripts of those tapes; and such evidence was then given widespread exposure by the news media.

ENCLOSURE 164-2042-200

3. Mr. Brent Quinton Downs, Major and Mrs. Joseph S. Lakich, and M. P. Brothers, Jr. (herein called "claimants") have filed administrative claims under the Federal Tort Claims Act, 28 U.S.C., Section 2671, et seq, seeking money damages by reason of the aforesaid deaths and damage to the aircraft. These claims are now pending before the Department of Justice and the Department of Transportation. These agencies have six months to consider the propriety of the claims. If the claims are rejected, claimants may then institute suit against the United States Government in this Court. This is the Court of proper venue, since the events, which gave rise to the claims, occurred in Jacksonville. This Court is also the most convenient forum because practically every eye witness resides in the Middle District of Florida.

4. Despite the fact that the venue of these criminal proceedings and potential Federal Tort Claims Actions lies with this Court, claimants petitioned the District Court for the Middle District of Tennessee, pursuant to Rules 27 and 34 of the Federal Rules of Civil Procedure, for the stated purpose, inter alia, of taking the testimony, by deposition, of the F.B.I. and F.A.A. personnel involved ^{the} in events in question and obtaining their files, records and exhibits. Such testimony and documentary evidence is germane to this criminal case and, in all probability, will be offered into evidence at the trial. (Claimants' petition is attached as Exhibit C.)

5. Petitioners are urging the District Court in Tennessee to grant their petition because it may be necessary to use the testimony of the federal agents and employees and the other evidence in prosecuting their tort claims actions in this court at some future date, in the event the agencies deny their pending claims. However interested claimants may be in preserving evidence to support their Federal Tort Claims Actions which, in the final analysis, may never be prosecuted, they are seeking to obtain the production of evidence that will likely be used by the prosecution or defense in this pending criminal case.

6. The production and disclosure of evidence in criminal cases in Federal District Courts is governed by Rule 16 of the Federal Rules of Criminal Procedure. The improper and uncontrolled disclosure of the evidence in this case may well result in publicity of the sort that would deny the defendant or the people a fair trial. To insure that the evidence in this case is accorded proper discovery treatment under judicial supervision in accordance with Rule 16, this Court concludes that the desires of claimants to the contrary must give way. In due time, so as not to frustrate the orderly and fair disposition of this criminal case, claimants will have ample opportunity to amass evidence in support of their potential Federal Tort Claims Actions. In the interest of justice and to safeguard the rights of defendant and the people to a fair trial in this case, this Court concludes that the disclosure of evidence in this case must conform to the dictates of Rule 16 of the Federal Rules of Criminal Procedure and orders of this Court. The Court further notes that the defendant has no objection to the entry of this Order. Therefore, it is

ORDERED:

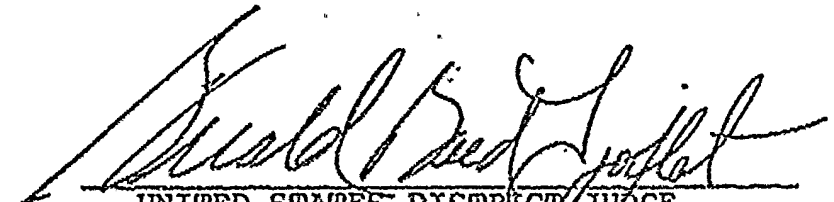
1. All Government agents and employees, including, specifically, Federal Bureau of Investigation agents and Federal Aviation Administration employees, are prohibited from making any statement to any non-federal government person regarding the events set out in and surrounding the criminal indictment in this case.

2. No party to this case or counsel or agent therefor shall reproduce any governmental documents and other material pertaining to this case, or disclose the contents thereof, except as authorized by Order of this Court.

3. No party to this case or counsel or agent therefor shall make or issue any public statement, written or oral, regarding the evidence in this case except as authorized by Order of this Court.

4. This Order shall not be construed to impair the continued public nature of these proceedings nor to restrict the discovery rights of the defendant.

DONE and ORDERED at Jacksonville, Florida, this 1st day of November, 1971.


UNITED STATES DISTRICT JUDGE

Copies:
Hon. John L. Briggs
Edward M. Booth, Esquire
James F. Neal, Esquire

EX-101

November 11, 1971

REC-61

164-2042-201

b6
b7C

[Redacted]
Elbert County High School
Elberton, Georgia 30635

Dear [Redacted]

Your letter to the President was referred to this Bureau and received on November 8th.

I readily understand the reasons which prompted you to write and, while I would like to respond to the points you raised, the matter involving the hijacking of a chartered aircraft to Jacksonville, Florida, on October 4th is currently the subject of court action. On November 1st U. S. District Judge Gerald B. Tjoflat, Middle District of Florida, Jacksonville, Florida, issued an order prohibiting all Government Agents and employees, including the FBI, from making any statements regarding the events set out in and surrounding the criminal indictment in this case to any persons not associated with the Federal Government.

MAILED 20

NOV 11 1971

FBI

Sincerely yours,

J. Edgar Hoover

NOTE: Correspondent is not identifiable in Bufiles.

JBT:nmi (3)

Tolson _____
Felt _____
Rosen _____
Mohr _____
Bishop _____
Miller, E.S. _____
Callahan _____
Casper _____
Conrad _____
Dalbey _____
Cleveland _____
Ponder _____
Bates _____
Tavel _____
Walters _____
Soyars _____
Tele. Room _____
Holmes _____
Gandy _____

54 NOV 17 1971

MAIL ROOM ☐ TELETYPE UNIT ☐

GEM
HRA

JBT

Mr. Tolson _____
 Mr. Felt _____
 Mr. Rosen _____
 Mr. Mohr _____
 Mr. Bishop _____
 Mr. Miller, E.S. _____
 Mr. Callahan _____
 Mr. Casper _____
 Mr. Conrad _____
 Mr. Dalbey _____
 Mr. Cleveland _____
 Mr. Ponder _____
 Mr. Bates _____
 Mr. Tavel _____
 Mr. Walters _____
 Mr. Soyars _____
 Tele. Room _____
 Miss Holmes _____
 Miss Gandy _____

October 20, 1971

President Richard Nixon
 White House

Mr. President,

I would like to express my feeling about the unnecessary death of Mr. Brent Downs in Jacksonville Fla. Which was caused by the F.B.I. Agents.

I think this was a very stupid mistake that was uncalled for. I thought that F.B.I. Agents were trained to take care of situations like that. But these Men surely were not!

I think that these men should be punished in some way. The Pilot begged the agents to let him refuel and leave for the Bahamas, But No they wouldn't let him. And now Mr. Downs is dead!

Yours very truly,

copy:kar

ack/nml
 11/11/71
 JBT/nmi

Elbert County High School
 Elberton, Georgia



8/10/71

October 20, 1971^E

50 President Richard Nixon
White House

Justice

GO

3-1

Mr. President, BRENT DOWNS

I would like to express my feeling about the unnecessary death of Mr. Brent Downs in Jacksonville Fla. which was caused by the F.B.I. Agents.

I think this was a very stupid mistake that was uncalled for. I thought that F.B.I. agents were trained to take care of situations like that. But these men surely were not!

I think that these men should be punished in some way. The Pilot begged the agents to let him refuel and leave for the Bahamas. But no they wouldn't let him.

ack/nml

11/11/71

FBI/mmi

164-2042-201

And now Mr. Down is dead!

b6
b7C

Yours very truly,



EXP

Mr. Tolson	_____
Mr. Felt	_____
Mr. Rosen	_____
Mr. Mohr	_____
Mr. Bishop	_____
Mr. Miller, ES	_____
Mr. Callahan	_____
Mr. Casper	_____
Mr. Conrad	_____
Mr. Dalbey	_____
Mr. Cleveland	_____
Mr. Ponder	_____
Mr. Bates	_____
Mr. Tavel	_____
Mr. Walters	_____
Mr. Soyars	_____
Tele. Room	_____
Miss Holmes	_____
Miss Gandy	_____

EXP. PROC.
30 NOV 8 1971
30

EX-101

REC-61

164-2042201

12
NOV 8 1971

CORRESPONDENCE

FEDERAL BUREAU OF INVESTIGATION
COMMUNICATIONS SECTION

NOV 4 1971

hsc TELETYPE

NR002 AT PLAIN

11:38 AM URGENT 11/4/71 ELS

TO DIRECTOR

JACKSONVILLE 164-103

Mr. Tolson	_____
Mr. Felt	_____
Mr. Rosen	_____
Mr. Mohr	_____
Mr. Bishop	_____
Mr. Miller, ES	_____
Mr. Callahan	_____
Mr. Casper	_____
Mr. Conrad	_____
Mr. Dalbey	_____
Mr. Cleveland	_____
Mr. Ponder	_____
Mr. Tavel	_____
Mr. Walters	_____ b6
Mr. Soyars	_____ b7C
Tele. Room	_____
Miss Holmes	_____
Miss Gandy	_____

See FROM ATLANTA 164-241 2P

GEORGE MALLORY GIFFE, JR., AKA (DECEASED); ET AL. CAA DASH
HIJACKING, INTIMIDATION OF CREW MEMBERS, CARRYING A CONCEALED WEAPON;
KIDNAPING. FTCA. 00:JK.

RE JACKSONVILLE TEL TO ATLANTA NOV. THREE, SEVENTYONE.

[REDACTED] AIR TRAFFIC SPECIALIST EVALUATIONS BRANCH,
FAA, SOUTHERN REGION OFFICE, ATLANTA, ADVISES THAT [REDACTED]

[REDACTED] MENTIONED IN RETEL IS A FAA EMPLOYEE ATTACHED TO AERO-
NAUTICAL ORGANIZATION, FAA, OKLAHOMA CITY. [REDACTED] QUESTIONS

WHETHER HE MAY FURNISH INFORMATION TO [REDACTED] UNDER PROVISIONS
OF GOVERNMENT COURT ORDER DIRECTING THAT NO INFORMATION IS TO
BE FURNISHED BY FBI OR FAA EXCEPT UPON ORDER OF COURT ORIGI-
NALLY ISSUING THE ORDER AND ALSO WHETHER USA RATHER THAN USDC
HAS AUTHORITY TO AUTHORIZE FURNISHING INFORMATION TO [REDACTED]

END PAGE ONE

REC-18/64

16 NOV 15 1971

7450
55 NOV 22 1971

PAGE TWO

AT 164-241

[REDACTED] PARTICULARLY INTERESTED IN ANSWERS TO THESE QUESTIONS AS
NASHVILLE FAA MAY CONTACT HIM FOR ADVICE BEFORE CONFERRING WITH

b6
b7C

[REDACTED]
JACKSONVILLE. ADVISE IF TERMS OF COURT ORDER PERMIT
RELEASE OF INFORMATION TO [REDACTED] BY FBI AND FAA.

END

TJT FBI WASH DC CLR

NR07 AX PLAIN

5:20PM NITEL 11/3/71 DFS

TO DIRECTOR

JACKSONVILLE

FROM ALEXANDRIA (164-69)

FEDERAL BUREAU OF INVESTIGATION
COMMUNICATIONS SECTION

NOV 3 1971

TELETYPE

Mr. Tolson	_____
Mr. Felt	_____
Mr. Rosen	_____
Mr. Mohr	_____
Mr. Bishop	_____
Mr. Casper	_____
Mr. Callahan	_____
Mr. Conrad	_____
Mr. DeLoach	_____
Mr. Evans	_____
Mr. Gale	_____
Mr. Rosen	_____
Mr. Sullivan	_____
Mr. Tavel	_____
Mr. Trotter	_____
Tele. Room	b6
Miss Holmes	b7C
Miss Gandy	_____

GEORGE MALLORY GIFFE, JR., (DECEASED); [REDACTED]
MRS. GEORGE M. GIFFE, JR., AKA - VICTIM (DECEASED); BRENT DOWNS -
VICTIM (DECEASED); [REDACTED] - VICTIM; CAA - HIJACKING;
KIDNAPING; FICA; OO:JACKSONVILLE.

RE ALEXANDRIA TELETYPE TO BUREAU AND JACKSONVILLE NOVEMBER
ONE, LAST.

INVESTIGATION AT PENTAGON ON NOVEMBER THREE, INSTANT, REVEALS
THAT [REDACTED] IS STILL IN EUROPE (SPAIN) DUE TO AIRCRAFT
MALFUNCTIONING AND SCHEDULED BACK TO WORK ON NOVEMBER EIGHT, NEXT.
ALEXANDRIA WILL MAINTAIN CONTACT WITH [REDACTED] OFFICE AND
INTERVIEW HIM UPON HIS RETURN AFTER NOVEMBER EIGHT,
NEXT.

END

TMT FBI WA ACK TOW

ACK TWO

REC-18/64 - 2042 - 203
16 NOV 15 1971

EX-100

5.5 NOV 22 1971

F B I

Date: 11/4/71

Transmit the following in _____
(Type in plaintext or code)Via AIRTEL AIR MAIL
(Priority)

TO: DIRECTOR, FBI

FROM: SAC, LOUISVILLE (164-68) (RUC)

GEORGE MALLORY GIFFE, JR., aka (Deceased);

SUSAN LAKICH GIFFE, aka - VICTIM (Deceased);

BRENT QUINTON DOWNS - VICTIM (Deceased);

[REDACTED] - VICTIM

CAA - HIJACKING, INTIMIDATION OF CREW MEMBERS,
CARRYING A CONCEALED WEAPON; KIDNAPING;
FTCA

OO: Jacksonville

b6
b7C

Re Louisville teletype to the Bureau, 10/31/71.

Enclosed for the Bureau are two copies each of
FD-302's of [REDACTED] at Franklin,
Ky. Enclosed for Jacksonville are seven copies of same
FD-302's and two copies each of same enclosed for Memphis
for information purposes.

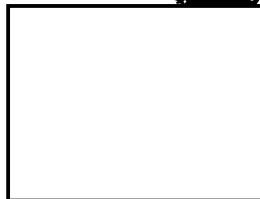
②-Bureau (enc. 4) (RM)
2-Jacksonville (enc. 14) (RM)
1-Memphis (enc. 4) (info) (RM)
1-Louisville
JWO/pdr
(6)

EX-115

REC-14

164-2042-204

12 NOV 8 1971



Approved: _____

Special Agent in Charge

Sent _____ M Per _____

FEDERAL BUREAU OF INVESTIGATION

Date of transcription 11/2/71

[redacted] furnished the following information:

NC

[redacted] stated she has known [redacted] for approximately four years. She stated that she and [redacted] have become quite close friends and that the two couples of them had done quite a lot of things together until [redacted] died and she believed it was in March, 1971. She said that since then they and the [redacted] have grown further apart, partly due to the fact that they had discouraged further social contact with the [redacted] and the last personal contact was in May of 1971, though there have been several phone calls between them since that time. She stated the only other day she has seen [redacted] was the Monday of the hijacking, date not recalled.

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[redacted] said that on Monday of the hijacking that she got a call from [redacted] employer in Nashville, Tennessee who stated that [redacted] would like her to spend the day with her. She said that she went to the [redacted] home, [redacted]

[redacted] arriving during the late morning or early afternoon. She said that [redacted] was truly upset and told her that Agents of the Federal Bureau of Investigation had already interviewed her. She stated that they had a long conversation but said that [redacted] had no idea what caused [redacted] to do what he had done. [redacted] said she feels she knows [redacted] well enough to have sensed it if [redacted] knew anything but [redacted] said she is quite sure [redacted] knew nothing about this.

[redacted] stated that she called the [redacted] home on Friday, probably October 15 or 22, whichever Friday it was following [redacted] release on bond from Jacksonville, Florida and return to Nashville, Tennessee, and said she called in the evening, possibly around 8:00 PM, to speak with [redacted] but [redacted] answered and said [redacted] was asleep on the floor. [redacted] said she spoke for a few minutes with [redacted] and during this conversation he seemed very quiet and glad to be alive, though he didn't say it

Interviewed on 10/30/71 at [redacted] File # LS 164-68by SA [redacted] Date dictated 11/1/71164-2048-204
ENCLOSURE

in so many words. She said he stated "Boy, did I get took" which [] took to mean his relationship with GEORGE MALLORY GIFFE, JR. [] stated that prior to the death of [] in March of 1971 that [] was attending the University of Tennessee Extension in Nashville, Tennessee and working very hard at this. [] was working and putting [] through school and helping to support the family, but following the death of [] seemed to give up. [] seemed to lose interest in school and as far as she knew was doing nothing until she learned that he and a partner, [] (last name unknown) had been for the past few months trying to get a nightclub, called the "U-Bra" going in Nashville, Tennessee, exact address unknown. She stated that normally [] based on his personality, could have been very successful at this but that he did not work very hard and laid around the house most of the time. She said that it was during these past few months in working with the nightclub that [] (last name unknown) introduced [] to GEORGE MALLORY GIFFE, JR. and that apparently GIFFE had promised them money to use for the nightclub but this money never materialized. [] stated that she never did meet GIFFE and apparently [] only met him once and did not like him at all and wished that [] would stay away from him. She stated, however, that apparently GIFFE had the type of personality that would appeal to [] in that he was the apparently successful wheeling-dealing type of individual and that [] would very much fall in line with this sort of person. She stated she felt that probably [] was a sucker for GIFFE's line.

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[] stated that the day of the hijacking when she was with [] that [] told her that the Sunday night just prior to the hijacking that GIFFE called [] at home. She stated [] was sure it was GIFFE because she had spoken with him on the telephone before and she was the one who answered the telephone. She stated that [] became angry because she had told [] to stay away from GIFFE. She stated that during this call [] appeared agitated when talking with GIFFE and she recalls one statement something to the effect that "it's okay, it's all set". She stated that [] also recalls [] getting two other telephone calls that Sunday but she did not answer the telephone and has no idea who they were from.

[] also stated that [] told her that [] (last name unknown) and his wife had once attended a party at the GIFFE house in Nashville, Tennessee, exact address unknown. She stated that [] wife had characterized the GIFFE house to [] as being like a National Guard armory with all sorts of guns in it. [] wife had told [] that at the party there was a machine gun and many other guns out in the open and that several of the people at the party were playing with the guns and that this had made [] wife very nervous.

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b7C

[] stated that [] came to [] and visited her for a short while in May of 1971. She stated that [] explained that he lived [] but that he wanted to talk over minor marital problems with [] if nothing more than to just get it off his chest. [] stated that the problems were very minor but she felt that possibly many small things were just building up inside of him, and that possibly that since his father had died just a couple of months earlier that they now were more oppressive to him. She said that in many ways [] is just a great big kid and was always having dreams and expectations, many of which never come true. She stated that she personally felt that possibly the "U-Bra" club was just another big dream that was not turning out successful for [] and may have had some affect on his actions at the time of the hijacking. She stated that [] always had to put up a front and she felt that many times when [] would talk with [] [] that he would exaggerate his own successes and accomplishments if nothing more than to obtain the approval and admiration of []. She said that [] had always admired and loved his father and that it appeared to her that after his father that [] would come to [] for approval.

[] stated that she believed that [] did not approve of [] feeling that in many ways she was the modern type woman not going by the standard that the man is the absolute master and the woman the servant. She said she also feels that not much of the [] family did like []

[] stated that as far as she knows []

[] has no past criminal record and is a very patriotic individual. She stated that for several reasons she has come to oppose the Vietnam war and often when this subject came up in [] presence, that he would vigorously support the United States Government and would get very upset about her comments about opposing the war. She stated that [] did not have an excuse for anyone who did not want to serve his country and could not understand anyone feeling this way.

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[] stated that had read an article appearing in the Sunday edition of the Nashville Tennessean following the hijacking and this was a feature story on GEORGE MALLORY GIFFE, JR. and his wife. She stated that this article while describing GIFFE also almost perfectly described [] if one would leave out the portion concerning wife beating and palm reading.

[] again stated that she really could not understand to any extent [] actions in relation to the hijacking. She stated that while she and [] have sensed the change in his personality, in that he seemed to have given up on life since his father's death, that they did not really feel there was anything that seriously wrong. She stated that possibly many minor problems just built up within him and he decided this was a way to get away from it all plus the fact that he could have easily been impressed and swayed in his thinking by GEORGE GIFFE. She stated that if they were heading for the Bahamas that the thrill of it probably would have appealed to [] and she described him as being the actor type, always wanting to play his part out to the hilt. She stated she could in her mind picture [] imagining himself the ERNEST HEMINGWAY type with a patch over his eye, swashbuckling it around in the Bahamas completely free of any cares or troubles he may have had at home. She stated she can't picture [] having planned this thing by himself or very thoroughly and feels probably the most he would have known is that he was going to help GIFFE pick up his wife and take her to the plane and possibly had an idea where they were going but stated she doesn't feel that [] probably had any idea how serious the situation was he was getting involved in. She also stated she had heard portions of a tape recording of conversations between the aircraft and the tower at Jacksonville and recalls hearing someone call for two bottles of scotch.

LS 164-68

F

She stated that this sounded exactly like [redacted] and reminded her of him in his foolish moments and stated that while she did not hear if scotch had been requested by name she is sure that it would have been Chevas Regal, that being his favorite and the type he often drank. She stated while on the subject of drinking that [redacted] had a tremendous capacity for liquor and while she had never seen him in a drunken state she had seen him drink a total fifth by himself in one evening and never show drunken symptoms like most people would after consuming that much alcohol. She also stated she did not believe [redacted] would ever have taken pills or drugs of any sort because he had always been too proud of his physique and body and had no patience with anyone who would damage their body.

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FEDERAL BUREAU OF INVESTIGATION

1Date of transcription November 4, 1971

[redacted]
[redacted]
and employed at [redacted]
furnished the following information:

[redacted] ^{NC} stated that he met [redacted] ^{CALIE}

[redacted] in [redacted] He said that [redacted] played on the football team, [redacted] they became close friends. He said that [redacted] was one of the best liked boys in school and that [redacted] was the life of the party type, full of nonsense and a lot of fun to be around. He said that most people had a lot of confidence in [redacted] and felt that he would succeed in whatever he did, and as an example of this he stated that some years later [redacted] told him he had received a letter from his former high school typing teacher requesting a letter of reference from him that she could use in applying for a position somewhere in Alabama.

[redacted] said that in 1957 during the end of high school one day [redacted] approached him and said, "Let's join the Navy." [redacted] stated they did this, with [redacted] joining a few days after graduation in June, 1957, and he about a month later. He said that [redacted] was sent to some location in Illinois, and he was sent to San Diego, California.

[redacted] stated for the next four years, 1957 through 1961, while they were both in the Navy, he had no personal contact with [redacted] but did keep in touch through letters. He said that from what [redacted] wrote him he apparently did quite well and was elected as Recruit Chief Petty Officer during Basic Training. He said during [redacted] Navy years, [redacted] was transferred to Washington, D. C. He said while there [redacted] began working in a parking lot during his spare time from the Navy and eventually moved up to manager of the lot, name of the lot not known. He stated that [redacted] also met his future wife, [redacted] (Last Name Unknown), in Washington, D. C. while she was attending American University. He said they got married, there, and during this period, [redacted] was doing quite well

Interviewed on 10/30/71 at [redacted] File # LS 164-68

by SA [redacted] /slb Date dictated 11/4/71

LS 164-68

2

and enjoying life.

[redacted] advised that [redacted] got out of the Navy in approximately May, 1971, a short time before he got out, and that [redacted] and his wife then went to [redacted] and lived in a small house there, address not recalled. He said that [redacted] enrolled in the [redacted] School in [redacted]

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[redacted] said that during this period he was in college and, thus, did not see much of [redacted] for the next four to five years. He said that the best he can remember he next saw [redacted] when [redacted] and his wife were residing in a new home in the [redacted] area of [redacted]. He said that [redacted] was very proud of the [redacted] work in the house, having done most of it by himself from scratch.

He said that during one visit with [redacted] he recalls [redacted] telling him that he was going to take his wife and go to Oregon, pick peas, and relax for awhile. He said that the first time they started out for Oregon they had a wreck and had to return home but shortly thereafter did complete the trip to Oregon. He said that [redacted] is from somewhere near [redacted] and that this was, he believed, the general area they had gone to. [redacted] could not recall the date of this trip but said it seemed like the mid-60's, possibly 1964. He said that [redacted] spoke in great details of the joys of picking peas and the intricacies of the machine, etc. He said that [redacted] could see beauty and details in things that most people could not. He said he did not know whom [redacted] worked for in [redacted] but believed the peas were for the Jolly Green Giant Company although [redacted] may have just worked for an individual farmer.

LS 164-68

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[redacted] said that after [redacted] left [redacted] he went to work for [redacted] located [redacted] in [redacted]. He said his next contact with [redacted] was when [redacted] had gone to work for [redacted] Company in Nashville, Tennessee, in approximately 1966. He said that by the time [redacted] joined [redacted] he had earned his journeyman toolmaking certificate and possibly also his journeyman drafting certificate. He stated that [redacted] had always been artistically inclined and coupled with these certificates he felt that [redacted] would achieve considerable success.

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He said that one day [redacted] called him, possibly during 1968, and said that he had moved up to top salesman for [redacted] and was bucking for a vice president's job. [redacted] stated that shortly thereafter he learned that the [redacted] Company had folded up. He said he believes next [redacted] went to work for Magnavox in Andrews, North Carolina, in 1969 but added that possibly [redacted] worked for another firm in Nashville between [redacted] Company and his employment with Magnavox. He stated he believed that the manager at Magnavox had previously managed some plant in Portland, Tennessee. [redacted] said he and his wife, [redacted] visited [redacted] in North Carolina during the summer of 1969, and to them the [redacted] seemed extremely happy there. [redacted] stated that while employed at Magnavox as maintenance foreman, [redacted] one day, signed a time card for an employee as being present at work while, in fact, this employee was off fishing. He said that [redacted] was fired because of this largely due to union pressure because the union felt that this showed preferential treatment.

[redacted] said that the [redacted] then returned to Nashville, Tennessee. He stated that he feels the fact he was fired was quite a blow to [redacted] stated

LS 164-68

4

that [] was always jealous of him because he had a college degree while [] did not, and so, wanting more education, [] enrolled at the University of Tennessee Extension at Nashville. [] stated that later he was surprised because he found out apparently [] was taking geography courses. He said [] felt he could get a good job with the Coast Geodetic Survey. He said [] became very involved with his school work but seemed to shift his emphasis from day to day. He stated that during this time [] became very proud about his writing ability which he had just discovered. He said [] was going ahead with plans to go to graduate school. He said during this period, 1969 through early 1971, [] was working somewhere in Nashville and putting [] through school. He said they resided during this time at []

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b7C

[] stated in March, 1971, [] father died in Portland, Tennessee. He said [] had always been very proud of his father. He stated [] did not shed a tear, but he knows that this affected him very much, and while he could not recall the exact date, [] and his wife came to visit him and his wife one night after they left the funeral home in Portland, Tennessee.

[] stated he felt this was a turning point for [] where he had always been industrious before he now became lethargic and even loss interest in school. [] had been having minor marital problems, and this seemed to make things worse, and [] seemed very discouraged. [] for awhile worked on weekends at his father's roofing business with his brother in []

LS 164-68

5

Tennessee. [] said since the death of [] father, he and his wife had only seen [] about two times, the last in approximately May, 1971. He said [] seemed to be picking up many of the ideas of the younger generation, and they no longer had much in common. He stated he had somewhat discouraged further visits by the []

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[] stated since May of this year that occasionally [] would call, but this is about the only contact they have had. He said that apparently during the past few months [] became involved with trying to get a nightclub, called the "U-Bra," going in Nashville with a partner, [] (Last Name Unknown). He felt that [] could have been successful at this, but apparently lay around his apartment all the time. He said during this time [] had two or three other jobs unrecalled except once [] stated he was selling some sort of vegetable slicer. Sometime during this period [] also became acquainted with GEORGE MALLORY GIFFE, JR., as apparently GIFFE had promised [] some money to help with the nightclub although he never came through with any of the money. He stated that from conversations with [] neither she nor [] partner, [] (Last Name Unknown), approved of GIFFE and wished he would have nothing to do with him. He said that from what he had read in the newspapers concerning GIFFE's personality [] and GIFFE were quite similar and GIFFE particularly was the type of person that would appeal to [] since GIFFE reportedly was the wheeler-dealer type and at least on the surface appeared very successful.

[] said that for the past couple of years [] was working and supporting the family and during the last few months particularly

LS 164-68

6

had gotten very tired of [] lying around the house all the time. While [] did not know exactly when this occurred, [] had recently given [] an ultimatum to either start providing for the family by November 1, 1971, or she would leave him for good.

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b7c

[] stated that in no way could he explain [] actions in relation to the hijacking unless pressures had just built up within him since his father's death. He stated he never knew [] to own a gun except maybe a small one given to him by his grandfather many years ago. He said that possibly the thought of going to the Bahamas seemed adventuresome to him. He said he did not feel that [] comprehended just how serious the situation was which he was getting into and got involved simply because he looked up to GIFFE and thought that the exciting future could relieve him of his present problems.

UNITED STATES GOVERNMENT

Memorandum

TO : Mr. Bates *Curtis*

FROM : R. J. Gallagher *RJG*

SUBJECT: GEORGE MALLORY GIFFE, JR.
AKA (DECEASED);
CRIME ABOARD AIRCRAFT -
HIJACKING; KIDNAPING

DATE: November 10, 1971

1 - Mr. Rosen
1 - Mr. Bates
1 -
1 - Mr. Gallagher
1 -
1 - Mr. Felt
1 - Mr. Mohr
1 - Mr. Bishop

1 - Mr. Callahan
1 - Mr. Dalbey

Tolson _____
Felt _____
Rosen _____
Mohr _____
Bishop _____
Miller, E.S. _____
Callahan _____
Casper _____
Conrad _____
Dalbey _____
Cleveland _____
Ponder _____
Bates _____
Tavel _____
Walters _____
Soyars _____
Tele. Room _____
Holmes _____
Gandy _____

In connection with the civil proceedings in U. S. District Court at Nashville wherein the FBI and Federal Aviation Administration are being sued concerning the 10/4/71 hijacking of the private chartered flight from Nashville, Tennessee, to Jacksonville, Florida, it has been learned that attorney for the plaintiffs, has filed a letter with attached affidavit* in support of his pleadings requesting complete disclosure of evidence and right to interview Bureau Agents and witnesses to the hijacking.

affidavit states he spoke with Mr. Briggs, U. S. Attorney, Jacksonville, on 11/1/71 and had been advised by Briggs that the Government's motion in the criminal proceedings in Jacksonville was "to prevent the Federal Court in Nashville from requiring disclosure of the FBI's file in this case." Briggs indicated "We want an orderly procedure with the criminal case first." also alleges Briggs told him the Government entered into an agreement with the attorney for the defense in the criminal case to provide them with full disclosure. also claims in his affidavit the criminal defense attorney informed him the U. S. Attorney in Jacksonville agreed to "omnibus procedure" giving the defense full disclosure of Government information about the hijacking. The affidavit continues that U. S. Attorney Anderson in Nashville told he had had dinner with U. S. Attorney, Jacksonville, and discussed how to prevent discovery in the civil case.

The above has been brought to the attention of the Department who believe that affidavit is an effort on his part to insure his motions for access to evidence is granted. The

BHC:bkc
(11)

EX-101

REC 16/64-2042 205

CONTINUED - OVER

*in U. S. District Court, Nashville,

54 NOV 19 1971

17 NOV 15 1971

Gallagher to Bates Memorandum
RE: GEORGE MALLORY GIFFE, JR.

Department telephoned U. S. Attorney Briggs in Jacksonville, who was already aware of [] affidavit. Briggs stated his "dinner" with U. S. Attorney, Nashville, was actually a chance meeting when the two of them attended the same ecology conference in Atlanta recently. The Department indicated appropriate steps will be taken in an effort to prevent [] access to the evidence, Bureau files, or to interviewing Bureau personnel.

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b7C

ACTION: This matter is being followed closely in Nashville and Jacksonville for any additional pertinent developments and to insure the criminal proceeding takes precedence over the civil case.

RS/
CLM

7

V
P
CMB
RC
RJG/nob
WBS
SP/GCM
JMM

FEDERAL BUREAU OF INVESTIGATION
COMMUNICATIONS SECTION

NOV 11 1971

TELETYPE

NR003 ME PLAIN
URGENT

5:55 PM 0 NITEL 11-11-71 DMB

TO DIRECTOR

JACKSONVILLE (164-103)

FROM MEMPHIS (164-76)

Mr. Tolson ☒
Mr. Bell ☒
Mr. Rosen ☒
Mr. Mohr ☒
Mr. Bishop ☒
Mr. Miller, ES ☒
Mr. Callahan ☒
Mr. Casper ☒
Mr. Conrad ☒
Mr. Dalbey ☒
Mr. Cleveland ☒
Mr. Fonder ☒
Mr. Gales ☒
Mr. Rosen ☒
Mr. Walters ☒
Mr. Soyars ☒
Tele. Room ☒
Miss Holmes ☒
Miss Gandy ☒

ALSO KNOWN AS
GEORGE MALLORY GIFFE, JR., AKA (DECEASED); [REDACTED]

[REDACTED] SUSAN LAKICH GIFFE, AKA - VICTIM (DECEASED);

BRENT QUINTON DOWNS - VICTIM (DECEASED); [REDACTED]

CRIME ABOARD AIRCRAFT

CRUMP - VICTIM; ~~CAA~~ - HIJACKING; INTIMIDATION OF CREW

Federal Tort Claims Act

MEMBERS; CARRYING A CONCEALED WEAPON; KIDNAPING; ~~FTCA~~

Office of Origin:

00: JACKSONVILLE.

U.S. DISTRICT COURT

THIS DATE, USDC JUDGE FRANK GRAY, JR. FILED AN ORDER

Middle District of Tennessee

WITH USDC CLERK'S OFFICE, MDT, NASHVILLE, IN PM HOURS

REGARDING CIVIL ACTIONS FILED THIS CASE.

USDC JUDGE GRAY STATED IN THE ORDER THAT THE PETITIONERS,
(RULE FOR TAKING DEPOSITIONS)

UNDER RULE TWENTYSEVEN, FEDERAL RULES OF CIVIL PROCEDURE,

ARE SEEKING BOTH TO PERPETUATE THE TESTIMONY OF CERTAIN

INDIVIDUALS AND ALSO TO GAIN ACCESS TO VARIOUS ITEMS OF

TANGIBLE EVIDENCE. JUDGE GRAY ORDERED THAT THE PETITION,

INsofar

AS IT SEEKS TO DISCOVER OR OTHERWISE GAIN IMMEDIATE

ACCESS OF TANGIBLE EVIDENCE, IS DENIED. JUDGE GRAY BASED

THIS DENIAL ON THE FACT THAT NECESSARY STEPS HAVE BEEN

TAKEN TO INSURE THAT THESE ITEMS WILL BE PRESERVED.

END PAGE ONE

5 NOV 22 1971

REC-88

164-2042-206

NOV 16 1971

November 12, 1971
GENERAL INVESTIGATIVE DIVISION

Attached concerns the hearing 11/11/71, before U. S. District Judge Frank Gray, Jr., at Nashville, Tennessee, in the civil proceeding filed against the Bureau and Federal Aviation Administration in connection with the 10/4/71, hijacking of private chartered flight from Nashville, Tennessee, to Jacksonville, Florida. Purpose of the hearing was to perpetuate testimony and allow plaintiffs access to documents and evidence pertaining to this case. The Criminal Division of the Department has telephonically advised that as a result of the hearing the Government was successful in preventing plaintiffs from having access to documentary evidence or from interviewing Government witnesses in the criminal proceedings except that the court would allow FBI Agents to be deposed. Depositions will be in the form of written interrogatories which will be reviewed by the Department who intends to plead privilege to any they consider objectionable. In the event the privilege is disallowed, the Department would then have basis for appeal to Circuit Court.

We are continuing to follow closely all proceedings in the civil court to insure criminal prosecution at Jacksonville takes priority.

BHC/jak

~~12/11/71~~ R/GCM

CMB RS
WBS RJG AC
DAS

ME 164-76

PAGE TWO

JUDGE GRAY STATED REGARDING THE PETITION TO PERPETUATE THE TESTIMONY OF CERTAIN INDIVIDUALS THAT "THERE IS A SERIOUS PROBLEM IN THIS CASE REGARDING JUST WHAT TESTIMONY THE PETITIONERS DESIRE TO PERPETUATE FOR, IN THE OPINION OF THE COURT, NEITHER THE PETITION NOR THE PROPOSED ORDER SUBMITTED BY PETITIONERS SETS FORTH THE REQUISITE SPECIFICITY, THE SUBSTANCE OF THE TESTIMONY SOUGHT TO BE ELICITED. ACCORDINGLY, BEFORE PROCEEDING FURTHER IN THIS MATTER, IT IS ORDERED THAT PETITIONERS FILE WITH THE COURT, FOR ITS CONSIDERATION, A MORE DETAILED SUMMARY OF WHAT QUESTIONS THEY INTEND TO ASK THE PROSPECTIVE DEPONENTS IN ORDER TO PERPETUATE THEIR TESTIMONY. IT IS SUGGESTED THAT SUCH SUMMARY COUCHED IN THE FORM OF WRITTEN INTERROGATORIES, WHICH COULD BE ANSWERED BY THE PROSPECTIVE DEPONENTS."

THE ABOVE IS THE ESSENCE OF THE ORDER FILED THIS DATE AND A COPY OF THE ORDER WILL BE PROMPTLY FORWARDED TO THE BUREAU AND TO JACKSONVILLE.

P. END.

CCs - Mr. Felt, Mr. Rosen, Mr. Mohr, Mr. Callahan, & Mr. Dalbey

FEDERAL BUREAU OF INVESTIGATION
COMMUNICATIONS SECTION

NR009 JK PLAIN

NOV 11 1971

TELETYPE

8:32 PM NITEL 11-11-71 ALH

TO DIRECTOR (164-2042)

MEMPHIS (164-76)

OKLAHOMA CITY (164-54)

FROM JACKSONVILLE (164-103) (P)

Mr. Tolson	_____
Mr. Felt	_____
Mr. Rosen	_____
Mr. Mohr	_____
Mr. Bishop	_____
Mr. Miller, ES	_____
Mr. Callahan	_____
Mr. Casper	_____
Mr. Conrad	_____
Mr. Dalbey	_____
Mr. Cleveland	_____
Mr. P. J. [unclear]	_____
Mr. Bates	_____
Mr. Tavel	_____
Mr. Walters	_____
Mr. Soyars	_____
Tele. Room	_____
Miss Holmes	_____
Miss Gandy	_____

GEORGE MALLORY GIFFE, JR., AKA (DECEASED); ETAL, CAA - HIJACKING,
INTIMIDATION OF CREW MEMBERS, CARRYING A CONCEALED WEAPON; KIDNAPING;
FTCA. -OO: JACKSONVILLE.

JACKSONVILLE DAILY SUMMARY DASH NOV. ELEVEN INSTANT.

[redacted] FAA FLIGHT STANDARDS DIVISION, ARRIVED JACK-
SONVILLE EVENING OF NOV. TEN, LAST. ON INSTANT DATE [redacted] TOGETHER
WITH JACKSONVILLE CASE AGENT, MET WITH UNITED STATES ATTORNEY JOHN
BRIGGS, TO DISCUSS [redacted] FACT FINDING TRIP THUS FAR.

[redacted] ADVISED THAT HE MET WITH [redacted] CO-PILOT OF AIR-
CRAFT AND [redacted] CHIEF PILOT FOR BIG BROTHER AIRCRAFT ON NOV. TEN
LAST, AT FAA OFFICE NASHVILLE. [redacted] WERE IN FAA OFFICE IN
CONNECTION WITH SEMI-ANNUAL PROFICIENCY EXAMINATION AND [redacted] MADE
CONTACT AT THAT TIME THUS AVOIDING ANY UNUSUAL PRETENSE. [redacted]
DISCUSSIONS WITH [redacted] WERE LIMITED TO FACTUAL INFORMATION
CONCERNING FUELING AND PERFORMANCE OF AIRCRAFT, RESULTING IN

END PAGE ONE

57 NOV 22 1971

NOV 16 1971

164-2042-2070

0

DETERMINATION THAT WING TANKS OF AIRCRAFT HAD TWENTY FIVE GALLONS OF FUEL EACH ALTHOUGH CAPACITY FOR THOSE TANKS IS THIRTY THREE AND ONE HALF GALLONS EACH. LONG RANGE SPECIAL FUEL TANK WAS NOT FILLED AT TIME OF FUELING OF AIRCRAFT IN NASHVILLE AND THEREFORE FUEL OF TWO HUNDRED SEVENTY GALLONS LISTED ON FLIGHT LOGS APPEARS TO BE CORRECT.

ADDITIONAL INFORMATION DEVELOPED BY [] INDICATES THAT AIR-
CRAFT HAD IT TAKEN OFF FROM JACKSONVILLE WITHOUT REFUELING OR IF IT HAD CONTINUED WITHOUT LANDING IN JACKSONVILLE WOULD NOT HAVE REACHED FREEPORT, BAHAMAS. POSSIBILITY EXISTS THAT IF PILOT HAD MADE PRIOR ADJUSTMENTS AND PREVIOUS PRECISE CALCULATIONS AIRCRAFT WOULD HAVE REACHED FREEPORT, BAHAMAS BUT FINAL LANDING WOULD HAVE BEEN EXTREMELY QUESTIONABLE.

b6
b7C

UNITED STATES ATTORNEY BRIGGS POSED SEVERAL TECHNICAL QUESTIONS TO [] CONCERNING THE OPERATION OF THE FUEL FLOW FROM THE TANKS AND THESE QUESTIONS WILL HAVE TO BE RESEARCHED BY [] UPON HIS RETURN TO HIS HOME STATION.

[] VIEWED AIRCRAFT AT AIRKAMAN, JACKSONVILLE, WHERE AIRCRAFT NOW STORED IN HANGAR. NO ENTRY MADE INTO AIRCRAFT AT ANY TIME NOR AIRCRAFT TAMPERED WITH IN ANY MANNER TO PRECLUDE REMARKS BY ATTORNEY'S FOR PLAINTIFF.

[] ALSO MET WITH FAA OFFICIALS AT JACKSONVILLE TOWER AND WITH CHIEF OF GENERAL AVIATION IN JACKSONVILLE AREA.

END PAGE THREE

JK 164-103

PAGE THREE

[REDACTED] INTENDS TO DEPART JACKSONVILLE FOR H⁰ME STATION SOMETIME
DURING MORNING OF NOV. TWELVE, NEXT.

b6
b7C

OKLAHOMA CITY WILL MAINTAIN CLOSE LIAISON WITH FAA IN ORDER TO
OBTAIN FINAL RESULTS OF [REDACTED] REPORT.

NO FURTHER DEVELOPMENTS IN THIS CASE AT UNITED STATES ATTORNEY'S
OFFICE THIS DATE.

END

HOLD FOR ONE

TMT FBI WA ACK THREE

REC-37
EX-115
64-2042-208

November 11, 1971

University Hospital
1405 East Ann Street
Ann Arbor, Michigan 48104

b6
b7C

Dear [redacted]

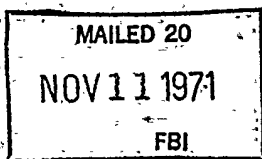
Your letter, with enclosure, to the President was referred to this Bureau and received by Mr. Hoover on November 8th.

He readily understands the reasons which prompted you to write and, while he would like to respond to the points you raised, the matter involving the hijacking of a chartered aircraft to Jacksonville, Florida, on October 4th is currently the subject of court action. On November 1st U. S. District Judge Gerald B. Tjoflat, Middle District of Florida, Jacksonville, Florida, issued an order prohibiting all Government Agents and employees, including the FBI, from making any statements regarding the events set out in and surrounding the criminal indictment in this case to any persons not associated with the Federal Government.

Sincerely yours,

Helen W. Gandy

Helen W. Gandy
Secretary



NOTE: Correspondent was the subject of a Security Matter-C investigation in 1951 which was closed in 1955. He is self-described as a liberal who is anticommunist; however, he has admitted activities with, and sympathy for, the Communist Party Movement.

JBT:djg (3)

Tolson _____
Felt _____
Rosen _____
Mohr _____
Bishop _____
Miller, E.S. _____
Callahan _____
Casper _____
Conrad _____
Dalbey _____
Cleveland _____
Ponder _____
Bates _____
Tavel _____
Walters _____
Soyars _____
Tele. Room _____
Holmes _____
Gandy _____

58 NOV 19 1971

NOV 16 1971

MAIL ROOM ☐ TELETYPE UNIT ☐

UNRECORDED COPY FILED IN 100-379110-

Justice



UNIVERSITY HOSPITAL

EDWARD J. CONNORS, DIRECTOR
ANN ARBOR, MICHIGAN 48106

Mr. Tolson	✓
Mr. Felt	✓
Mr. Rosen	✓
Mr. Mohr	✓
Mr. Bishop	✓
Mr. Miller, ES	✓
Mr. Callahan	✓
Mr. Casper	✓
Mr. Conrad	✓
Mr. Dalbey	✓
Mr. Cleveland	✓
Mr. Ponder	✓
Mr. Tavel	✓
Mr. Walters	✓
Mr. Soyars	✓
Tele. Room	✓
Miss Holmes	✓
Miss Gandy	✓

THE UNIVERSITY OF MICHIGAN MEDICAL CENTER



October 20, 1971

President Richard Nixon
White House
Washington, D.C.

Dear Mr. President:

I enclose a clipping from the Ann Arbor News which indicates that as a result of actions by the F.B.I., the pilot of a private plane forfeited his life. In a very real sense, the decision of the F.B.I. to "waste" the life of Brent Q. Downs represents a flagrant disregard for the life of a United States citizen.

Downs Brent Quinton

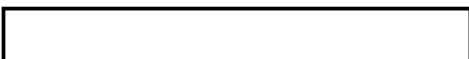
Do you suppose that the F.B.I. would have acted in similar fashion had it been necessary to "waste" the life of the President of the United States or that of a United States Senator? The decision to sacrifice Mr. Downs to me represents the disdain of the persons making that decision in favor of a search for grandiosity and publicity.

Yours truly,



ENCLOSURE

MLS:kb



After 5 days, return to
UNIVERSITY HOSPITAL
1405 E. Ann Street
ANN ARBOR, MICHIGAN 48104

EX-115 REC-37/64-2042-208

NOV 8 1971

CORRESPONDENCE

UNRECORDED COPY FILED IN 100-375110-38 NOV 8 1971

Miss Gandy reply
11/11/71
JET
NOV 16 1971